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VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS IMPROVEMENT AND EXTENSION ACT OF 1982

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Mr. SIMPSON, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany S. 2385]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2385) to amend subchapter IV of chapter 73 of title 38, United States Code, to modify the Veterans' Administration health professional scholarship program, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a committee substitute, and an amendment to the title, and recommends that the bill, as amended, do pass.

COMMITTEE AMENDMENTS

The amendments are as follows:

Strike out all after the enacting clause as follows:

[That section 4142 of title 38, United States Code, is amended—

[(1) by inserting the words "or, in the case of any individual employed by the Department of Medicine and Surgery at the time the individual submits an application under clause (2) of this subsection, part-time" after the words "full-time" in subsection (a)(1);

[(2) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j);

[(3) by inserting before subsection (h) (as redesignated by clause (2)) the following new subsection:

["(g)(1) If a participant is awarded a scholarship as a part-time student, the obligation of the student under subsection (e)(1)(B)(iv) of this section, the amount of the stipend payable under subsection (f)(1)(B) of this section, and the length of the scholarship which can be awarded under subsection (e)(1)(A)(i) of this section, shall, subject to paragraph (2) of this subsection, be adjusted in accordance with the proportion that actual credit hours taken bear to credit hours required of a full-time student.

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[“(2)(A) The scholarship shall be provided to any part-time student for not more than four school years.

[“(B) The period of obligated service for any part-time student is not less than two years to be served after the applicable date described in section 4143(b)(3) of this title.”;

[(4) by inserting in subsection (h) (as redesignated in clause (2)) after the words “provision of law,” a comma and “but subject to the second sentence of this subsection,”; and

[(5) by inserting at the end of subsection (h) (as redesignated by clause (2)) the following new sentence: “In the case of any participant in the scholarship program who is employed by the Department of Medicine and Surgery before commencing a course of training, the first sentence of this subsection shall not apply for so long as such participant continues to be so employed.”.

[SEC. 2. That section 4143(c) of title 38, United States Code, is amended by inserting “under subsection (b) of this section” after “in the Department of Medicine and Surgery”.

[SEC. 3. Within amounts provided to the Medical Administration and Miscellaneous Operating Expenses Appropriation in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, Public Law 97–101, and notwithstanding section 404 thereof or any other similar provision of law, the sum of $4,000,000 shall be available until expended only to carry out the program established by section 4141 of title 38, United States Code.]

and insert in lieu thereof the following:

That (a) this Act may be cited as the “Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982”.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 2. (a) Section 4142 is amended—

(1) in subsection (a)(1)—

(A) by inserting a comma and “or, in the case of any Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility, part-time,” after “full-time”; and

(B) by adding below clause (4) the following new sentence: “For the purposes of this subchapter, ‘part-time student’ means a Veterans' Administration employee pursuing study on not less than a half-time basis in a course of training described in subsection (a)(1)(B) of this section.”;

(2) by inserting “maximum” after “The” in subsection (f)(3);

(3) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j);

(4) by inserting after subsection (f) the following new subsection:

“(g)(1) Subject to paragraph (2) of this subsection, if a participant in the Scholarship Program is awarded a scholarship, as provided for in subsection (a)(1) of this section, as a part-time student in a course of training described in subsection (a)(1)(B) of this section—

“(A) the maximum period of time for which a scholarship may be awarded under subsection (e)(1)(A)(i) of this section shall be increased.

“(B) the period of obligated service of such participant under subsection (e)(1)(B)(iv) of this section shall be reduced, and

“(C) the maximum amount of the stipend payable under subsection (f)(1)(B) of this section shall be reduced

in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in such a course of training.

(2)(A) In the case of a part-time-student participant, no scholarship may be awarded for a period in excess of four-school years except that the Administrator may, subject to such participant's maintaining an acceptable level of academic standing as described in subsection (e)(1)(B)(iii) of this section, extend the scholarship award period for a period not in excess of two additional

school years if the Administrator determines that such an extension would be in the best interests of the United States.

"(B) The period of obligated service of such a participant shall be not less than one calendar year.

"(3) In the case of such a participant, no stipend shall be paid under subsection (f)(1)(B) of this section for any month during which such participant is not actually attending the course of training in which such participant is enrolled."; and

(5) by inserting "full-time-student" before "participants" in subsection (h) (as redesignated by clause (3) of this subsection).

(b) Section 4143(c) is amended by inserting a comma and "initially in the case of a full-time-student participant, and after the completion of such participant's course of training in the case of a part-time-student participant," after "appointed".

(c) Section 4146 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) Sums appropriated for the purpose of making payments under this subchapter shall remain available for such purpose until expended.".

ADDITIONAL PAY PROVISIONS

SEC. 3. Section 4107 is amended—

(1) in paragraph (10) of subsection (e)—

(A) by inserting "(A)" before "Notwithstanding" and "(i)" before "increase";

(B) by inserting before the period a comma and "or (ii) extend the period for which additional pay is paid under paragraph (3) of this subsection to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday"; and

(C) by adding at the end the following new subparagraph:

"(B) Any increase in such rates of additional pay or any extension of such period of additional pay may be made on a nationwide, local, or other geographic basis if the Administrator finds that such increase or extension is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal facilities in the geographic area involved) or extension."; and

(2) by adding at the end the following new subsections:

"(h)(1) Notwithstanding any other provision of law but subject to paragraphs (2) and (3) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services of any category of health-care personnel described in clause (A) or (B) of subsection (g)(1) of this section, the Administrator may authorize for such category of health-care personnel, on a nationwide, local, or other geographic basis, the use of such flexible and compressed work schedules as were described in regulations and guidelines issued by the Director of the Office of Personnel Management under section 305 of the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (92 Stat. 761) in order to carry out titles I and II of such Act.

"(2) Not later than one hundred and eighty days after the date of the enactment of this subsection, the Administrator, in order to carry out this subsection, shall prescribe regulations, which, to the maximum extent feasible, shall be consistent with the regulations and guidelines described in paragraph (1) of this subsection.

"(3) The authority to establish flexible and compressed work schedules pursuant to this subsection shall expire on September 30, 1987.

"(4) Not later than the end of the four-year period beginning on the date of the enactment of this Act, the Administrator shall submit to the Congress a report on the results of the use of flexible and compressed work schedules, including an evaluation of the effects of the use of such schedules on the recruitment and retention of the health-care personnel using them, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

"(i)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, when the Administrator determines it to be necessary in

order to obtain or retain at any Veterans' Administration health-care facility the services of nurses appointed under this subchapter, the Administrator, pursuant to regulations which the Administrator shall prescribe, may provide that such nurses employed at such facility who work two regularly scheduled twelve-hour tours of duty within the period commencing at midnight Friday and ending at midnight Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full forty-hour administrative workweek.

"(2)(A) A nurse who is considered under paragraph (1) of this subsection to have worked a full forty-hour administrative workweek is entitled to basic and additional pay and annual and sick leave as prescribed in subparagraphs (B), (C), and (D) of this paragraph.

"(B)(i) The hourly rate of basic pay for such nurse for service performed as part of such nurse's regularly scheduled twelve-hour tour of duty shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

"(ii) The hourly rate of basic pay for such nurse for other service shall be derived by dividing the nurse's annual rate of basic pay by two thousand and eighty.

"(C)(i) Except as provided in division (ii) of this subparagraph, such nurse is not entitled to additional pay under subsection (e) of this section for any period included in such nurse's regularly scheduled twelve-hour tour of duty.

"(ii) Such nurse is entitled to overtime pay under subsection (e)(5) of this section for any period of service performed in excess of such nurse's regularly scheduled two twelve-hour tours of duty when the total officially ordered or approved service performed during an administrative workweek is in excess of (I) forty hours, (II) eight hours on a day other than a Saturday or Sunday, or (III) twenty-four hours within the period commencing at midnight Friday and ending at midnight Sunday.

"(D) Such nurse who is absent on approved sick leave or annual leave during such nurse's regularly scheduled twelve-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.".

CONTRACT CARE

SEC. 4. Section 601(4)(C) is amended—

(1) by inserting a comma and "and medical services described in clause (1) of section 612(f) of this title for a woman veteran if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that a medical condition of such woman veteran relating to her gender precludes appropriate treatment in facilities described in clause (A) or (B) of this paragraph" after "veterans" in subclause (iv); and

(2) by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983," in subclause (v).

CHAMPVA ELIGIBILITY REACQUISITION

SEC. 5. Section 613 is amended—

(1) by inserting a comma and "except as provided in subsection (d) of this section," after "manner and" in subsection (b); and

(2) by adding at the end the following new subsection:

"(d) Notwithstanding the provisions of the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall regain eligibility for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such benefits.".

REPORT EXTENSION

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983,", respectively.

TECHNICAL AMENDMENT

SEC. 7. Section 643 is amended by striking out "of any war".

STATE VETERANS HOME GRANTS

SEC. 8. Section 5033(a) is amended by striking out "the fiscal years ending September 30, 1981, and September 30, 1982" and inserting in lieu thereof "each of the six succeeding fiscal years".

MEDICAL INFORMATION EXCHANGE WITH STATE HOMES

SEC. 9. Section 5054(b) is amended by inserting before the period at the end of the first sentence "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)".

REGULATIONS FOR SPECIAL PERSONNEL AUTHORITIES

SEC. 10. (a) Not later than ninety days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed sixty days, proposed regulations for the implementation of (1) the authority provided in subsection (e)(10) of section 4107 of title 38, United States Code (as amended by section 3(1) of this Act), to increase amounts and extend periods of additional pay, and (2) the authority provided in subsection (g) of such section to increase rates of basic pay.

(b) Not later than two hundred and ten days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations pursuant to which such authorities will be implemented.

EFFECTIVE DATES

SEC. 11. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by section 5 shall take effect on October 1, 1982.

Amend the title so as to read:

A bill to amend title 38, United States Code, to enhance recruitment and retention of nurses and other health-care personnel in the Veterans' Administration, to improve the Veterans' Administration health professional scholarship program and certain other aspects of Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.

INTRODUCTION

S. 2385 was introduced on April 15, 1982, by the Chairman of the Committee, Senator Alan Simpson. As introduced, S. 2385 would have amended the Veterans' Administration Health Professional Scholarship Program to provide scholarship assistance to VA employed nurses attending school on a part-time basis and to permit funds appropriated for the Health Scholarship Program for fiscal year 1982 to be used until expended. On April 15, 1982, Chairman Simpson, at the request of the Administration, also introduced S. 2383, and S. 2384. As introduced, S. 2383 would have extended the authority for construction grants to State veterans' homes. S. 2384 would have extended from September 30, 1982, to September 30, 1983, authority pursuant to which the Veterans' Administration provides contract hospital care for certain veterans in Puerto Rico and the Virgin Islands.

Also on April 15, 1982, S. 2389 was introduced by the ranking minority member of the Committee, Senator Alan Cranston. As introduced, S. 2389 would have first, modified the VA's Health Professional Scholarship Program to authorize scholarship assistance for part-time

study and to make funds appropriated for the program available until expended; second, authorized other provisions relating to work schedules and pay to improve recruitment and retention of nursing personnel; third, extended certain VA health-care programs; fourth, provided women veterans with eligibility for certain outpatient care on a fee-for-service basis for gender-related disabilities; fifth, provided that CHAMPVA beneficiaries who lose their CHAMPVA health care eligibility by virtue of becoming eligible for Medicare benefits, would again become eligible for CHAMPVA benefits once they have exhausted any of their Medicare benefits; sixth, required the Administrator to publish proposed regulations regarding the implementation of certain sections of Public Law 96–330, relating to modifications in rates of pay including modifications made by provisions of this bill; and seventh, provided an express statutory authority for the VA to provide physical examinations prior to the point at which it is determined if a veteran is eligible for VA care or other benefits.

The Committee held a hearing, on April 21, 1982, chaired by Senator Simpson to receive testimony on S. 2383, S. 2384, S. 2385, S. 2389 and S. 1034. Those testifying at the hearing included Dr. Earl Brown, the Veterans' Administration Associate Deputy Chief Medical Director and other representatives of the Veterans' Administration; representatives from The American Legion, the Veterans of Foreign Wars, the Nurses Organization of the Veterans' Administration, and the National Association of State Veterans Homes.

After receiving the testimony, the Committee met in open session on April 28, 1982, and voted to report favorably S. 2385, with an amendment in the nature of a committee substitute and a title amendment. S. 2385 as reported consists of provisions derived with modifications from S. 2383, S. 2384, S. 2385, and S. 2389.

Summary of S. 2385 as Reported

Basic Purpose

The basic purpose of S. 2385 as reported (hereinafter referred to as "the Committee bill") is to maintain and improve the quality, scope, and efficiency of health-care services provided the Nation's veterans through the Veterans' Administration health-care system. The Committee bill would accomplish this purpose principally by enhancing the Veterans' Administration's ability to recruit and retain qualified nursing personnel by improving the VA's Health Scholarship Program, by authorizing certain alternative and flexible work schedules for nurses and by providing new authority for the Administrator to modify rates of pay for nurses.

The Committee bill would extend the authority for the VA to provide hospital care and medical services in Puerto Rico and the Virgin Islands and other territories of the United States on a contract basis; extend the authorization of appropriations for matching fund grants to States for construction and renovation of State veterans' home health-care facilities; and extend for one year the reporting date by which the VA must report on the pilot program for treatment and rehabilitation of alcohol and drug dependence.

The Committee bill would also authorize the Administrator to provide certain outpatient care on a fee-for-service basis for the non-service-connected disability of a woman veteran; provide that CHAMPVA beneficiaries would have restored and not again lose their CHAMPVA health-care eligibility because of eligibility for Medicare benefits; authorize sharing of information between the VA and State veterans' home health-care facilities; require the publication of proposed regulations relating to authorities provided in Public Law 96–330 including modifications made by the Committee bill; and make other technical amendments.

Summary of Provisions

Provisions of the Committee bill would:

1. Expand the VA's Health Professional Scholarship Program provisions by authorizing the VA to award scholarships to individuals employed by the VA and attending school on a part-time basis. The number of years of scholarship support would be limited to not more than 4 years except that, in an individual case, up to 2 more years of support may be provided, when the Administrator determines it to be in the best interest of the United States to waive the limitation. Part-time students would be allowed to carry no less than half the credit hours of a full-time student, and their minimum VA service obligation would be no less than 1 year.
2. Provide that funds appropriated for the scholarship program would remain available until expended.
3. Authorize the Administrator, when necessary for recruitment and retention purposes, to pay the additional-pay rate for registered nurses currently authorized for a tour of duty beginning or ending on a Sunday—a rate equal to 25 percent of the nurse's basic pay—for part or all of a tour of duty that begins or ends on a Saturday.
4. Provide the Administrator with greater flexibility to increase, on a nationwide, local or other geographic basis, the rates of additional pay for night, weekend, holiday, and overtime work if the Administrator determines that the use of the authority is needed for recruitment and retention.
5. Authorize the Administrator to provide flexible or compressed work schedules on a nationwide, local or other geographical basis for VA health-care personnel.
6. Authorize the Administrator to use his discretion, to allow nurses at individual VA facilities to work two 12-hour tours of duty during a weekend and have such service be considered a full 40-hour workweek.
7. Require the Administrator, within 90 days after the date of enactment of the Committee bill, to publish in the Federal Register, for public review and comment, proposed regulations for the implementation of the authority provided in Public Law 96–330—including modifications proposed by the Committee bill—to increase rates of additional pay for nurses, to extend the period for which additional "weekend" pay is paid to nurses, and to increase rates of basic pay for VA health-care personnel.

8. Authorize the Administrator to provide certain outpatient care on a fee-for-service basis for a non-service-connected, gender-related disability of a woman veteran, when the VA is unable to provide appropriate care for such disability.

9. Provide that CHAMPVA beneficiaries who lose their CHAMPVA health-care eligibility by virtue of becoming eligible for Medicare benefits would again become eligible for CHAMPVA benefits once any of their Medicare benefits have been exhausted and would not thereafter lose CHAMPVA eligibility by virtue of regaining Medicare eligibility.

10. Authorize the VA to exchange and share medical data, information, and techniques with health-care professionals at State veterans' home health-care facilities.

11. Extend for 1 year, through fiscal year 1983, VA authority to provide certain contract health care to eligible non-service-connected veterans in Puerto Rico, the Virgin Islands, and other United States territories and possessions.

12. Extend for 4 years, through fiscal year 1986, the authorization of appropriations for matching-fund grants to States for construction and renovation of State veterans' home health-care facilities.

13. Extend for 1 year, until March 31, 1984, the date by which VA must report to the Committees on Veterans' Affairs of the House of Representatives and the Senate on the first 3 years' results of the pilot program authorized by section 620A of title 38, for treatment and rehabilitation of alcohol or drug dependencies.

Discussion

VA Nursing Provisions

Background

In August 1980, the Congress enacted legislation—the Veterans' Administration Health Care Amendments of 1980, Public Law 96–330—which contained many important provisions designed to improve the VA's ability to recruit and retain high quality health-care personnel. This legislation was developed in response to serious difficulties the VA health-care system was facing in staffing its many facilities, thus limiting the system's ability to provide quality care to eligible veterans.

The Committee is particularly pleased to note that Public Law 96–330 continues to have a very salutary effect on the agency's health-care staffing efforts. However, it lacks certain elements to aid in the much needed recruitment and retention of nursing personnel. The Committee bill represents the Committee's efforts to build upon the gains made by that legislation by authorizing several new provisions and expanding on certain elements of the initial legislation focusing mainly on what the Committee believes to be additional needs regarding VA nurses.

Various provisions in Public Law 96–330 were designed as improvements for all categories of health-care personnel working in the VA's Department of Medicine and Surgery. The area of greatest concern at that time was the agency's ability to employ an adequate number of

qualified physicians, and for that reason, much of Public Law 96–330 was directed at matters related to the recruitment and retention of physicians. Since that time, in large part because of the provisions in Public Law 96–330, the VA has been successful in providing attractive career options for physicians, and the agency's record in that area has improved significantly. However, during the same period the agency has been less successful in attracting and retaining registered nurses (RN's).

The Committee's hearing on April 21, 1982, addressed VA health-care nursing personnel recruitment and retention issues. Numerous witnesses, including Dr. D. Earl Brown, Associate Deputy Chief Medical Director of the VA, who was accompanied by Donna Humes, Deputy Director of the Nursing Service; Barbara Chambers, President of the Nursing Organization of the VA (NOVA); James Magill, representing the Veterans of Foreign Wars; and John Sommer, Jr., representing The American Legion, appeared before the Committee to discuss the current RN shortages in the VA health-care system, and gave suggestions of ways to alleviate the problem so that the VA system could become more competitive with the private sector in the recruitment and retention of qualified RN's.

The VA testified that, since the enactment of the Public Law 96–330, between September 1980 and August 1982, the number of RN vacancies in the VA system has increased by 327. The total number of RN vacancies in the VA system has now risen to 1,268.

The Committee notes that in the same time period, since the enactment of Public Law 96–330, the numbers of Licensed Practical Nurses (LPN) and Nursing Assistants working in the VA have increased. LPN vacancies have decreased by 1,774.4, and there are currently 800 Nursing Assistants above desired personnel ceilings throughout the VA health-care system.

At the written requests of both the Committee Chairman, Senator Simpson, and the Ranking Minority Member, Senator Cranston, the VA provided written responses and background information to the Committee about the current RN shortages in the VA health-care system, and the need for expanded recruitment and retention incentives for RN's within the VA system.

A total of 938 VA health-care beds are closed as a direct result of the nursing shortage. The 938 figure includes 77 acute-care beds and 66 Intensive-Care-Unit (ICU) beds. The largest number of bed closings is in the Great Lakes Region, with 270 closed, followed by 162 in the Midwestern Region. A minimum of 430 RN's are needed to reopen all of the presently closed VA beds.

The VA reported to the Committee that 20 VA medical center's (VAMC's) report more than 20 RN vacancies, with 8 hospitals citing more than 35 RN vacancies. Of the 853 RN vacancies reported in the March 15, 1982, VA Recruitment Bulletin, 129 or 15.12 percent were for ICU nurses. The VA also provided, for the April 21, 1982, hearing record, the number of nurse vacancies and turnover rate at each VAMC. The VA was unable to provide, to the Committee, data on the average period of time required to fill a nurse vacancy at each VAMC.

The VA health-care system's RN–to–patient ratio has not improved since the enactment of Public Law 96–330. In December 1980, the VA

RN-to-patient ratio was 1 RN to every 2.5 patients. The current VA ratio is 1 RN to every 2.7 patients, whereas nationwide data from the 1979 American Hospital Association Annual Survey revealed a ratio of 1 RN to every 1.6 patients in non-Federal hospitals.

Barbara Chambers, President of NOVA, provided her views on the VA nursing shortage, in written response to a question submitted by Senator Simpson during the April 21, 1981, hearing:

> I strongly believe that the Veterans' Administration is in a crisis stage in the recruitment and retention of nurses. The reason for this is that the private sector, because of the shortage, is quick to respond to the needs of individual nurses in providing additional benefits and salary ranges much more quickly than that of the VA, who must do things through the legislative and/or regulatory process.

John Sommer, of The American Legion, in his testimony before the Committee on April 21, 1982, discussed the VA's RN shortage, and the problems the VA has as it competes with the private sector for available, qualified nurses. Excerpts from John Sommers' testimony follow:

> The recruitment and retention of registered nurses in the VA has become increasingly difficult because levels of compensation have been inadequate in comparison with what is being offered in the private sector . . .
>
> We are aware that the VA recruitment and retention efforts for nursing personnel have been intensified, and The American Legion is supportive of these positive undertakings. However, the fact remains that hospitals in the private sector enjoy a freedom from the limitations and restrictions that constrain the Veterans' Administration's recruitment and retention activities, and therefore have a substantially greater capability in offering fringe benefits and other inducements to attract nurses.
>
> The enactment of legislation to authorize the Administrator to provide flexible work schedules for VA nurses would significantly increase the Department of Medicine and Surgery's ability to compete with the private sector in attracting and retaining nurses.

Though the numbers of LPN's and Nursing Assistants working in the VA have increased since the enactment of Public Law 96–330, the Committee has thus become very aware that further expansion of the law to provide additional flexibility to the VA Administrator to implement competitive RN recruitment and retention measures would be necessary. The Committee believes that the continuing increase in RN vacancies, since the enactment of Public Law 96–330 has demonstrated that further steps are needed to be taken, and prompted the development of the provisions in sections 2 and 3 of the Committee bill.

Expansion of VA Health Professional Scholarship Program

Section 2 of the Committee bill, which is derived from S. 2385 and section 3 of S. 2389, would amend the VA Health Professional Scholarship Program, to authorize VA employees to participate in the Schol-

arship Program on a part-time basis, and to provide that funds appropriated for the Program in any given year would remain available until expended.

Section 4141, of title 38, United States Code, enacted as part of Public Law 96–330, authorized the VA Health Professional Scholarship Program, to help improve the VA's ability to adequately staff its health-care facilities with qualified personnel. The Scholarship Program had many provisions, which would:

First, authorize the VA to provide scholarships to students enrolled in physician or nursing training and to students enrolled in professional training in the other five health-care disciplines under the title 38 personnel system, as necessary to meet staffing needs in the Veterans' Administration, in exchange for the student's obligation to serve as a full-time employee in DM&S for a specified period of time.

Second, allow a program participant to defer serving his or her obligated service while receiving graduate medical education, with such deferral possibly conditioned on accruing additional obligated service.

Third, provide a scheme by which damages could be collected in the event a program participant breached his or her contract to serve in the VA.

Fourth, establish an amount for a monthly stipend that would be paid to program participants together with a basis to adjust such stipend as required to meet cost-of-living increases.

Fifth, specify that any program participant may not be obligated for service to the Federal Government under any other program.

Sixth, limit the amount of special pay a program graduate would be eligible to receive during the period of obligated employment.

Seventh, require the Administrator to report within 180 days of the date of enactment of the act on the status of steps taken to implement the scholarship program.

Eighth, require the Administrator to report annually on the scholarship program.

Though the Scholarship Program was authorized for use by the VA for both physicians and nurses, it has been implemented, thus far, only for nurses, to aid in the recruitment and retention of RN's in the VA health-care system.

Section 2 of the Committee bill, derived from S. 2385 as introduced and section 8 of S. 2389 would amend section 4142 of title 38, United States Code, to authorize VA employees to participate in the Scholarship Program on a part-time basis while continuing to work within the VA health-care system. It is the Committee's view that it would be appropriate for these participants to be, for the most part, VA employed RN's, who would continue to work in the VA while attending an advanced training program, on a part-time basis, to upgrade their educational qualifications. This provision is designed especially to retain current VA employed nurses who may not be able to afford to

go to school on a full-time basis. Public Law 96–330 authorized scholarship awards to participants who would attend school on a full-time basis only.

It is the Committee's intent that the new Scholarship Program's part-time participants, who would receive VA assistance, complete their education in a timely manner. This intent is reflected by the provision, in the Committee bill, which would require that participants in the program attend school on at least a half-time basis. In addition the Committee bill would limit the length of time a participant may receive support to no more than 4 years, except in specific instances when the Administrator determines that it would be in the best interest of the United States to waive this limit, in which case a further extension of up to 2 years would be allowed. The Committee designed this provision for those students who may have more than 2 years of education to complete for a baccalaureate degree, such as LPN's, who cannot afford to stop working and attend school on a full-time basis. The Committee wishes to emphasize its strong support for the implementation by the VA, in order to enhance its nursing personnel situation, of a variety of approaches that could be tailored to meet the individual needs of VA nursing personnel who wish to further their education while remaining employed by the VA.

Tuition reimbursement for full-time VA employees

Section 2 of the Committee bill would also clarify that the Administrator has the flexibility to determine the Health Professional Scholarship stipend amount for individual participants. The Committee intends this provision to enable the VA to provide a form of "tuition reimbursement" for those VA employed nurses who would decide, for example, to attend school on a part-time basis, but who would choose to continue to work full time. The Committee bill would allow these nurses to have the advantage of receiving tuition assistance of the Health Professional Scholarship Program, but would allow their stipends to be limited to no more than a nominal amount.

The Committee bill would provide that part-time Scholarship Program participants would have obligated service requirements to the VA, that would be adjusted according to the fraction of full-time study they pursue and the length of time that they are provided with scholarship support.

The Committee believes that the original service obligation requirement, provided for under the Health Professional Scholarship Program authorized by Public Law 96–330, is an essential element for the success of the Scholarship Program. Part-time participants would, under the provisions of the Committee bill, have a VA service obligation of 1 year for each year of full-time-equivalent study with scholarship support, except that in no case would the service obligation be less than 1 year.

For example, a VA employed nurse, who attended school on a half-time basis for 4 years, with VA scholarship support, in order to receive a baccalaureate degree, would be required upon graduation to fulfill a 2-year full-time-equivalent service obligation to the VA health-care system.

One purpose of this "pay back" is to integrate well-trained nurses into the VA health-care system. During the service obligation period,

the Committee would expect that many would choose to remain in the VA, and therefore improve the retention of highly qualified nurses. Both the expansions of the Scholarship Program, to include VA employees on a part-time basis and to provide a form of tuition reimbursement, for full-time VA employees, should be strong retention measures for those nurses currently employed by the VA. It is the Committee's desire that this new authority would demonstrate the VA's recognition of, and gratitude for, their service in the VA health-care system.

It is also the Committee's intent that these provisions would make the VA health-care system a more competitive option for those nurses returning to the work force after a period of absence. Barbara Chambers, RN, President of NOVA, testified at the Committee hearing, April 21, 1982, about the increasing number of RN's who have returned to the work force because of recent declining economic conditions. Many of these nurses have family and financial responsibilities that would otherwise prohibit them from advancing their education on a full-time basis. These nurses often seek employment in the private sector, rather than the VA, because community hospitals, in many instances, already provide these part-time educational benefits.

In the Committee's view, expansion of the VA Scholarship Program would also make the VA especially attractive to "diploma" nurses, those without a baccalaureate degree, who would be eligible for this expanded training option.

Therefore, it is the Committee's expectation that this expansion of the Scholarship Program would fit the needs of those new RN's, as they choose the VA as a place to work, and would have the additional impact of improving the VA's overall retention rate of RN's, as those training under this authority would complete the required service obligation and then continue to work in the VA health-care system, better serving the many veterans in the VA hospitals who benefit from experienced, well-trained, dedicated nurses.

Expansion of Health Professional Scholarship Program to provide that funds appropriated be available until expended

Section 2 of the Committee bill would also amend section 4146 of title 38, United States Code, so that funds appropriated in any given year for the Scholarship Program would remain available until expended. This provision would enable the VA to enter into multi-year scholarship commitments to Program participants and should make the Program more attractive to prospective applicants, who would be more assured that commitments made to them by the VA, for a given length of time, would be fulfilled accordingly. Therefore the program could be more useful for the VA's nursing recruitment and retention efforts.

Present section 4146 authorizes the Administrator to make payments for the Scholarship Program, to the extent that funds are available within any fiscal year, therefore, committing the VA to operate on a year-to-year appropriation basis.

The Health Professional Scholarship Program received a fiscal year 1982 appropriation of $1 million, but the Administration has not requested any fiscal year 1983 funding for this program. Section 2 of

the Committee bill would thus authorize the VA to implement the Scholarship Program for school year 1982–83, and enter into multi-year commitments with those chosen participants.

Provisions to enhance recruitment and retention of VA nurses

Section 3 of the Committee bill, derived from section 7 of S. 2389, contains several provisions, that are designed to provide new discretionary authorities for the Administrator to enhance the VA's ability to recruit and retain sufficient nursing personnel.

These new authorities should prove to be especially beneficial in the recruitment and retention of nurses in those areas where community facilities currently provide appealing benefit packages designed to attract personnel for work on shifts and days that are particularly difficult to staff.

Section 3 of the Committee bill contains three provisions that would extend the Administrator's authority to modify pay and working hours, as determined to be necessary, in certain geographic locations. The Committee intends that, under the provisions of section 3 of the Committee bill, the Administrator would be able, at the Administrator's discretion, to implement any or a combination of the recruitment methods described below, in those VA facilities with the greatest need, and to the degree necessary and for as long as needed, to compete with local private sector facilities in order to attain the recruiting goals of a particular VA Medical Center, and achieve desirable nursing staffing patterns. The Committee intends this increased flexibility to be a valuable management initiative to respond to nursing recruitment and retention problems in areas of need and in a manner that will be most cost-effective and efficient, and strongly urges the Administrator to make use of these added authorities whenever necessary, in the most appropriate combination.

The first provision relates to the rates of additional pay for nursing personnel who work outside of the regular workday or week. This provision would authorize the Administrator, when necessary to obtain or retain the services of registered nurses in the Department of Medicine and Surgery, to pay the additional pay rate currently authorized for a tour of duty beginning or ending on a Sunday—a rate equal to 25 percent of the nurses' basic pay—for part or all of a tour of duty that begins or ends on a Saturday.

In addition, the Committee bill would provide the Administrator with greater flexibility in the use of the existing section 4107(e)(10) authority (provided in Public Law 96–330) to increase the rates of additional pay for night, weekend, holiday, and overtime work as necessary for the purposes of recruitment and retention. The Administrator would be authorized to provide increased additional pay on a national, local or other geographic basis, if the Administrator determines, based on a representative sampling of non-VA facilities in the area involved, that the use of the authority is needed. Under current law, the Administrator may use this authority only on a facility-by-facility basis and must, in each case, find that increased additional pay at the particular VA facility is necessary for it to be competitive with non-Federal facilities in the same geographic area—that finding to be based on a sampling of those non-Federal facilities.

This provision further enhances the Administrator's authority to (1) provide pay competitive with, but not exceeding the same type of pay received by the same category of health-care personnel at non-Federal health-care facilities in the same labor market, (2) achieve adequate staffing at particular VA facilities, and/or (3) recruit personnel with specialized skills, especially those with skills which are especially difficult and demanding, such as individuals who provide specialized services to patients with spinal cord injuries. Utilizing the authority proposed in the Committee bill, the Administrator would be able to adjust the particular additional pay rating, thereby targeting the agency's effort on the area of need without making increases in geographic areas where there is not a similar need. The Committee, in including these provisions in the Committee bill, wishes to make clear that they are to be used at the discretion of the Administrator, and are not mandatory. The Committee expects that they will be implemented in various combinations, taking local needs into consideration.

In recent years, the number of beds in recovery rooms, intensive care units and other specialty units such as organ transplant and cardiac monitoring units have expanded dramatically compared with the number of beds in general medical/surgical units. The American Nurses' Association reports that in 1972, there were 28,964 beds in intensive care units; by 1981 there were 44,230 beds. It is the Committee's understanding that, in the private sector, it is the new graduates and young nurses who choose intensive care nursing, which in many cases offers innovative time schedules such as compressed workweeks.

The VA, utilizing the authority in section 4107(e)(5) of title 38, United States Code, currently permits compensatory time off for nurses in order to provide flexibility in establishing regular and irregular tours of duty. Although utilization of this authority has been helpful, it has created scheduling and timekeeping problems because of the limitations of the current law. The Committee believes that authority enabling VA to implement compressed workweeks for nurses in a manner similar to the compressed workweek regulations developed by the Office of Personnel Management (OPM) would alleviate many of these problems. The Committee considers compressed workweek authority under law to be essential to providing improved nurse coverage for patient care and to reduce the administrative complexities experienced in use of the compensatory time mechanism. In implementing compressed workweeks, the Committee intends for VA to followup to the extent applicable to the regulations developed by OPM in implementing compressed workweeks under Public Law 95–390.

In response to a written question submitted to the VA by Senator Simpson, concerning the cost of further utilizing the compressed workweek in the VA health-care system, the VA stated:

> Under compressed workweek, the cost involved and the impact on FTEE would be negligible since the employee works 80 hours, is paid for 80 hours, and no overtime is paid for the hours worked beyond 8 hours in any day . . .
>
> The VA does not foresee major problems in the administration of the compressed workweek.

Another component of the provisions in section 3 of the Committee bill, to increase the Administrator's flexibility to obtain or retain nurses in the Department of Medicine and Surgery, is the authority provided that would allow nurses at individual VA facilities to work two 12-hour tours of duty during the weekend and have such service be considered a full 40-hour workweek—thereby providing full-time employee fringe benefit status for such important purposes as health insurance and retirement eligibility. In many communities this kind of work schedule, the so-called "Baylor Plan", is available and has been highly attractive to nurses. Many private sector facilities which utilize the "Baylor Plan" are now able to guarantee every or every other weekend off to full-time nursing personnel, because the weekend shifts are fully staffed. Currently, many VA nurses work two, three, or four weekends per month, because of the difficulties the system has in staffing the adequate number of RN's necessary for weekend duty.

Although the VA witnesses indicated that the agency did not support this provision, the Committee strongly believes that the VA should have this authority available for use, if it becomes necessary, in order to remain competitive with the local labor market practices when essential for recruitment and retention purposes. The Committee also believes in the judicious application of this authority after a review of community practices. The VA testified that the authority to establish two regularly scheduled 12-hour tours of duty between midnight Friday and midnight Sunday which would equate to a full 40-hour administrative workweek would not be necessary in all facilities. Therefore, the broadest possible flexibility is intended.

The Committee is aware that the "Baylor Plan" is a relatively expensive nursing recruitment tool. The VA provided its own written cost estimates, at the request of Senator Simpson during the April 21, 1982 hearing, on the implementation of the "Baylor Plan" in VA health-care facilities.

> Under the "Baylor Plan", the employee works 24 hours but is paid for 40 hours. To introduce the "Baylor Plan" in a facility and maintain the same number of nursing care hours per patient day, there would need to be an 8-percent increase in nursing FTEE. In the 15 VA facilities competing with community facilities offering the "Baylor Plan", it is estimated that an additional 200 RN FTEE would be needed at an estimated cost of 4.4 million dollars.

Given the high cost of the use of the "Baylor Plan", the Committee recommends that the Administrator use his authority, provided by the Committee bill, only in the specific locations where the need is clear and where use of the compressed workweek would not be sufficient incentive for enough nurses to choose to work for the VA health-care system. Local community practices related to the "Baylor Plan" option vary extensively from actual pay for actual time worked to the pure "Baylor Plan" (40 hours pay and full-time benefits for two 12-hour tours worked on Saturday and Sunday). Therefore, in considering whether to implement this provision, the Committee intends that the VA would not exceed comparable plans in the community.

The Committee also recommends that, in those certain locations where the Administrator would determine that the "Baylor Plan" should be implemented, the nurses already employed by the VA should be given the first chance to decide whether or not to participate in the plan. The Committee believes that offering this choice to VA nurses would demonstrate the agency's appreciation of service in the VA health-care system, and become an added retention incentive.

Fee-Basis Outpatient Care to Female Veterans for Gender-Related Conditions

Clause (1) of section 4 of the Committee bill, which is derived from section 2 of S. 2389, would authorize the Administrator to provide certain outpatient care on a fee-for-service basis, including pre- or post-hospitalization care and care necessary to obviate the need for hospitalization, for the non-service-connected disability of a woman veteran when the VA is unable to provide appropriate care for her gender-related disability. This provision should insure that, in those cases in which a woman veteran is otherwise eligible for basic VA ambulatory care but cannot receive the care because the VA is unable to treat her gender-specific condition, the VA will be able to furnish care through a contract or fee arrangement with another provider.

The Committee intends that the medical care under this provision be authorized by the appropriate VA clinic of jurisdiction subject to the basic requirements for any fee-basis medical care, namely that VA and any other Government facilities lack the capability to provide such care or to provide it economically because of geographical inaccessibility.

The Committee recognizes that the VA is not currently equipped to provide certain gynecological and other specialized services that only women require. Though currently the demand for this type of health care in the VA is not significant, the Committee believes that those women veterans who require such services should be able to receive them. The Committee believes it is important that these few eligible female veterans receive the appropriate quality health care that they require for their gender-related ailments, just as male veterans can already receive necessary health care for all their ailments within the VA system. The estimated cost for this new fee-basis health care would be insignificant.

Amending VA's contract authority in no way enlarges VA's basic authority to provide health-care services in its facilities for the treatment of veterans' disabilities. This new authority is likely to facilitate provision of care to female veterans where VA medical facilities are geographically distant or when VA medical facilities do not have attendings or consultants with specialties in female medical problems. Larger VA medical facilities may find it necessary to reevaluate their medical clinics and expand or establish specific medical clinics for female veterans and their unique medical problems. Assuming the number of female veterans increases as anticipated, fee-basis expenditures for specialized (i.e., mammography) and gynecological services could increase dramatically in future years.

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A March 1982, VA Statistical Brief, entitled "The Female Veteran Population: An Overview of Its Growth in the Last Decade", indicated that the growing number of female veterans need to be considered as the VA formulates future health-care policy. The report stated that, while the number of male veterans has declined recently, the female veteran population is growing rapidly. In the past 5 years the number of female veterans has increased by 26 percent. The report predicts that the female veteran population will maintain a course of steady growth.

The study points out that:

> . . . as the estimated count of female veterans rises in the years to come, an increasingly vital aspect of the VA's mission will be the special consideration given to the problems of this group of former military personnel with respect to the administration of various types of veteran programs, such as medical care, counselling, loan guaranty, and education.

The Committee bill does not amend the basic eligibility provisions for VA health care in sections 610 and 612 of title 38. In this regard, the Committee is aware of the pending litigation in the case of *Kirkhuff* v. *Nimmo* (originally *Kirkhuff* v. *Cleland*), decided by the United States District Court for the District of Columbia and now on appeal to the United States Court of Appeals for the District of Columbia Circuit. In that case, a female veteran is challenging a VA regulation (38 CFR 17.48(e)) barring VA hospital benefits for routine pregnancy and childbirth. The Committee, by including this provision in the Committee bill, does not intend to express any view on the validity of the regulation in question.

Extension of Authority to Provide Certain Contract Hospital Care and Medical Services in Puerto Rico, the Virgin Islands, and Other Territories and Possessions of the United States

Under section 601(4)(C)(v) of title 38, United States Code (as most recently amended by Public Law 97–72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981) in conjunction with sections 610(a) and 612(b) of title 38, United States Code, the VA has the authority to provide, through contracts with private facilities, hospital care and such medical services as would obviate the need for hospital care for the treatment of non-service-connected conditions of veterans in any State, Territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous States. In Public Law 95–520, the Veterans' Administration Programs Extension Act of 1978, this authority was made permanent with respect to Alaska and Hawaii and, for other locations, to expire on December 31, 1981. In Public Law 97–72, this authority with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and other Territories and possessions of the United States was extended by 9 months, from December 31, 1981, until September 30, 1982. Provision of care and services under this authority is conditioned on the requirement that the annually-determined patient load and the incidence of the provision of medical services for veterans hospitalized and

treated by the VA in each such State, Territory, Commonwealth, or possession be consistent with the level of such care and services provided within the 48 contiguous States. However, with respect to contract hospital care and medical services which may be furnished in Puerto Rico and the Virgin Islands, the Administrator is authorized to waive this requirement until the current expiration date for the general authority.

At the time the Congress was considering the legislation that was ultimately enacted as Public Law 95–520, the General Accounting Office had recently completed a report on the VA's use of its then-existing contract authority to provide non-service-connected care in Puerto Rico and the Virgin Islands. In this GAO report, which is discussed in more detail in the Committee's report accompanying H.R. 5029 (S. Rept. No. 95–825), the GAO concluded that "a comprehensive assessment is needed of the health-care needs of servants in Puerto Rico and the Virgin Islands." In response to this recommendation, the Congress directed the VA to conduct such a study and submit a report to the Congress and the President not later than February 1, 1980. Last Congress, in Public Law 96–330, the deadline for this report was extended until February 1, 1981, and, on March 10, 1981, the report was submitted to the Congress.

The VA report found generally that the male population of Puerto Rico and the Virgin Islands has a somewhat poorer state of health than the male population of the United States and that the availability of non-VA medical resources in both locations is very limited. In addition, the report noted that the percentage of service-connected disabled veterans is higher in the Puerto Rico and Virgin Islands veteran population than in the U.S. veteran population. Based on all of the findings of the study, the contractor who actually conducted the study for the VA concluded that there is a gap between the demand for health-care services from both Puerto Rico and Virgin Islands veterans and the available supply of such services and that this gap is widening at a rate of approximately 2 percent each year.

In order to address the problems raised in the report, the VA developed a series of options, including four options for inpatient hospital care, six options for outpatient care and five options for nursing home care. The inpatient care options ranged from expanding the San Juan VA Medical Center to 1,037 beds (in order to end contract psychiatric care) to reducing the VAMC to 492 beds from the current level of 692 beds. Outpatient care options ranged from increasing the number of visits to 401,300 to decreasing the number of visits to 112,957. The nursing home patient care options ranged from the VA constructing all 144 beds deemed necessary to the VA constructing various numbers of beds and contracting for the remainder.

So that the Committee and the Congress could have sufficient time to weigh these various options and select the most appropriate course for meeting the health-care needs of veterans in these locations, the contract non-service-connected care authority was extended by Public Law 97–72, for 9 months, until September 30, 1982. Because of the complex nature of the potential impact of the various options, section 4 of the Committee bill, which is derived from S. 2384 and section 2 of S. 2398, would further extend the expiration of this authority for an additional year, until September 30, 1983.

Extension of CHAMPVA Eligibility

Section 5 of the Committee bill would amend section 613 of title 38, United States Code, to provide for the restoration, under certain circumstances, of health-care eligibility through the VA's CHAMPVA program to those who are served by that program—the spouse or dependent child of a veteran who has a permanent and total service-connected disability; the surviving spouse or child of a veteran who died as the result of a service-connected disability, or who, at the time of death, had a permanent and total service-connected disability; or the surviving spouse or child of a person who died in the line of duty while serving on active duty. Thus, in the case of a CHAMPVA beneficiary who loses CHAMPVA eligibility by virtue of becoming eligible for hospital insurance benefits under Part A of title XVIII of the Social Security Act (Medicare) and then exhausts any particular category or all of his or her Medicare coverage, he or she would at that point become eligible again for medical care under CHAMPVA.

Section 103(b) of Public Law 93–82, the Veterans Health Care Expansion Act of 1973 (which added present section 613 to title 38), authorized the VA to provide the dependents and survivors of certain service-connected disabled veterans (described in the preceding paragraph) with generally the same health-care benefits—essentially reimbursement for care furnished by private providers—as certain dependents and survivors of active duty and retired military personnel have under the Department of Defense Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) program established under chapter 55 of title 10, United States Code. This authority is carried out through the Civilian Health and Medical Program of the Veterans' Administration (CHAMPVA), which provides the same health-care benefits as CHAMPUS, and, pursuant to an agreement between the Veterans' Administration and the Department of Defense, CHAMPVA claims processing is carried out under the jurisdiction of the Office of CHAMPUS within the Department of Defense.

Under current law (the second sentence of section 1086(e) of title 10), CHAMPUS beneficiaries lose their CHAMPUS eligibility—and, by extension, CHAMPVA beneficiaries lose their eligibility under CHAMPVA—when they become eligible for Medicare benefits. In recent years, the Committee has become aware of cases in which CHAMPVA beneficiaries, after becoming eligible for Medicare benefits, have exhausted their Medicare benefits—either their benefits for a particular year or their lifetime benefits—leaving them with no Federal coverage at all or no coverage for certain types of health care. It is the Committee's strongly held view that the individuals involved—the dependents and survivors of service-connected severely disabled veterans—are particularly deserving of assured Federal health-care assistance and should not be subjected to the interruption or termination of such assistance that can occur when they obtain Medicare eligibility. Thus, the provision in the Committee bill would restore their CHAMPVA eligibility whenever they exhaust a Medicare benefit.

In the course of developing this provision, the Committee recognized that eligibility for some Medicare benefits can be restored following

the elapse of a specified period of time (for example, inpatient hospital care eligibility is limited to 90 days in a benefit period—"spell of illness"—but is restored after a beneficiary has been out of a hospital for a period of 60 days). Thus, providing a basis for restoration of CHAMPVA benefits as proposed in the Committee bill could lead to a situation in which an individual would have both Medicare and CHAMPVA benefits available for a single episode of care. This could lead to a health-care provider receiving double payment.

Although the provision in the Committee bill would amend title 38 to establish a basis for an individual to regain CHAMPVA eligibility, this provision alone would not prevent the problem of double payment from arising. Thus, the Chairman and Ranking Minority Member of the Committee, in a May 26, 1982, letter (reprinted below) to the Chairman and Ranking Minority Member of the Senate Finance Committee, advised them of this provision in the Committee bill and, to the extent they believed that the potential double payment problem was significant, solicited their suggestions or advice for Veterans' Affairs Committee action as well as consideration of the need for Finance Committee action. Should any further action on this issue be indicated, the Chairman and Ranking Minority Member of this Committee are prepared to take such steps as might be appropriate.

ALAN K. SIMPSON, WYO., CHAIRMAN
STROM THURMOND, S.C. — ALAN CRANSTON, CALIF.
ROBERT T. STAFFORD, VT. — JENNINGS RANDOLPH, W. VA.
BOB KASTEN, WIS. — SPARK M. MATSUNAGA, HAWAII
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THOMAS K. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

May 27, 1982

Honorable Bob Dole
Chairman
Honorable Russell B. Long
Ranking Minority Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Bob and Russell:

The Veterans' Affairs Committee on April 28, 1982, ordered reported S. 2385, the proposed "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982". Included as section 5 of this bill is a provision that would modify eligibility for the VA's CHAMPVA program, a program providing eligibility for health care for spouses, dependents, and survivors of certain service-connected most seriously disabled veterans which is very similar to DoD's CHAMPUS program. Under section 5, when a CHAMPVA-eligible individual loses coverage under that program by virtue of the application of 10 U.S.C. 1086 (through 38 U.S.C. 613(b)), which removes CHAMPVA eligibility when that individual becomes eligible for Medicare, that individual would regain CHAMPVA eligibility permanently after exhausting any part of Medicare benefits. The Committee has adopted this provision because of a belief that those eligible for CHAMPVA benefits constitute a population particularly deserving of Federal protection and should not be left without any health-care coverage. A copy of the provision and a brief explanation of it are enclosed.

In the course of developing this legislation, it became apparent to the Committee that, by allowing an individual to regain CHAMPVA eligibility while allowing that individual to continue to be eligible for Medicare benefits might make it possible for a health-care provider to receive dual payments -- being paid both by CHAMPVA and Medicare -- for a single episode of care. Our staffs have discussed this concern with Finance Committee majority and minority staff members. To the extent that you believe that enactment of this provision might create this or other problems, we would appreciate any suggestions or advice that you might have for our action, either through legislation or in our oversight capacity, to avoid such problems, as well as your consideration of the need for any action in your Committee as to the Medicare program.

We look forward to your views on this issue and to working with you should you believe any action is appropriate.

Sincerely,

ALAN K. SIMPSON
Chairman

ALAN CRANSTON
Ranking Minority Member

Enclosures

Extension of Alcohol or Drug Pilot Program Reporting Date

Treatment and rehabilitation programs

Section 104 of Public Law 96–22, the Veterans' Health Care Amendments of 1979, authorized the Administrator to conduct a 5-year pilot program under which the VA could contract for care, treatment, and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans who are suffering from alcohol or drug dependence or abuse disabilities. The program was designed so as to demonstrate any medical advantages and cost-effectiveness of care in such contract facilities as compared to facilities over which the VA has direct jurisdiction.

The Committee recognized the value of offering different modes of treatment so that treatment may be tailored to an individual's special needs and circumstances so as to enhance his or her chances of recovery. Although inpatient treatment such as that routinely provided by the VA is essential in certain cases, there are many cases in which alternative types of care, such as halfway-house care, would be more effective, less restrictive, and far less costly.

Thus, the Committee urged the VA in Report No. 96–100, to accompany S. 7, the Veterans' Health Care Amendments of 1979, to contract with a broad range of facilities to demonstrate the comparative effectiveness of treatment and rehabilitation in different community-based settings. In addition to halfway houses, therapeutic communities, and psychiatric residential treatment centers, which are specifically mentioned as eligible contract facilities in section 104 of Public Law 96–22, the VA was authorized to contract with a variety of other community-based facilities which are capable of providing care and treatment and rehabilitation services to veterans with alcohol or drug dependence or abuse disabilities in the geographic vicinity of the veteran's usual residence. These included, for example, residential facilities such as alcoholism hospitals and alcoholism facilities operated by general hospitals. The VA was not, however, authorized by Public Law 96–22 to contract for care in a hospital or other facility that is remote from the veteran's community.

Eligible contract facilities also included nonresidential treatment facilities, including health maintenance organizations, offering outpatient care or day-care programs. The inclusion of nonresidential treatment settings in this pilot program was especially important in light of the facts that most of the treatment for alcohol and drug abuse in the United States is provided in nonresidential settings and that treatment in such settings is much less costly than that offered in residence. In addition, nonresidential treatment enables an individual to receive treatment while seeking or maintaining employment and striving to be an active member of the community in which he or she resides or works. As was discussed in the Committee's 1979 report employment is an absolutely critical problem for addicted veterans.

Substantial discussion concerning the legislative history and Committee's views of these treatment and rehabilitation programs can be found on pages 34–39 of Senate Report No. 96–100 to accompany S. 7, the Veterans' Health Care Amendments of 1979.

Reporting Requirement

To help assure that Congress would have adequate information to assess the value of the pilot program authorized by Public Law 96–22 for purposes of considering an extension of the program, section 104 required the Administrator to report to Congress, not later than March 31, 1983, on the findings and recommendations pertaining to the first 3 years of operation of the program. The Committee intended that the report would include a thorough assessment of the medical advantages, success rates, and cost-effectiveness of each of the various treatment settings employed in this program and comparisons with alcohol and drug programs directly operated by the VA.

Section 6 of the Committee bill, which is derived from section 2 of S. 2383 and section 5 of S. 2389, would extend by 1 year the program's period of operation to be taken into consideration when the VA prepares the report on the drug and alcohol dependence contract program, by extending the report deadlines for 1 year, until March 31, 1984.

In the Veterans' Administration's March 17, 1982, transmittal letter to the Senate, the Administrator submitted draft legislation that would extend the VA's March 31, 1983, report deadline for 1 year, until March 31, 1984. The Administrator justified the 1 year extension in the transmittal letter to the Committee:

> The Administrator is required to report to the Veterans' Affairs Committee of the Senate and House of Representatives by March 31, 1983, on the findings and recommendations regarding the operation of the pilot program through September 30, 1982. This report will only analyze the first two fiscal years of the five fiscal years authorized for the pilot program. Thus, the reporting date of March 31, 1983, will prevent consideration in the report of operational data from the remainder of the pilot period. In addition, the first fiscal year of the pilot program to be reported on will not involve contracts with the full range of facilities permitted by section 104. In fiscal year 1981, the VA contracted only with community-operated halfway houses which provide residential care for several months. During fiscal year 1982, however, the VA plans to contract with a wider range of facilities including therapeutic communities and outpatient group and individual counseling facilities. By permitting the VA to analyze information gathered during three fiscal years instead of two in its report to the congressional committees, the report's findings and recommendations would be based on longer and more complete experience. Enactment of this provision would not involve any additional cost to the VA because it does not extend the operating or reporting period beyond the originally authorized life of the pilot program.

The Committee agrees with the VA's proposal, and believes that an inclusion of full 3 years of program results in the report is necessary for a more comprehensive review of the pilot program. Therefore, the extension provision is included in the Committee bill.

Technical Amendment to State Veterans' Home Per Diem Payment Authority

The Veterans' Administration's March 17, 1982, transmittal letter to the Senate also included a legislative proposal to:

> . . . amend section 643 of title 38, United States Code, to clarify the VA's authority to pay per diem rates to a State for all veterans receiving care in a State home and not just for veterans "of any war." Section 641 of title 38, United States Code, authorizes the Administrator to reimburse a State at per diem rates for veterans receiving care at a State home if the veterans are eligible for care in a VA facility. Section 643 of that title creates ambiguity, however, in that it retains a reference to a prior limitation on eligibility, the requirement of wartime service. This requirement was eliminated from section 641 by Public Law 94–417 enacted on September 21, 1976. The reference to wartime service in section 643 was overlooked at that time. This amendment would remedy that technical error. No additional cost would arise from enacting this amendment.

The Committee agrees with the Administrator's draft legislative proposal and the technical amendment, which is derived from section 3 of S. 2383 and section 6 of S. 2389, is included as section 7 of the Committee bill.

State Veterans' Homes Programs

Included in title 38, United States Code, are two programs of assistance to State veterans' home extended-care facilities providing care to veterans who are eligible for VA care—a program of per diem payments for care provided to veterans in such facilities and a program of matching grants for the construction, remodeling or renovation of State veterans' homes. The Committee bill, in section 8, would extend the program of matching grants to the States for construction, remodeling, or renovation of State veterans' home hospital, nursing home, and domiciliary care facilities through fiscal year 1986.

Grants for the construction of State homes

The program of assistance to States for the construction, remodeling, and renovation of State home facilities began on August 19, 1964, with the enactment of Public Law 88–450, which authorized annual appropriations of $5 million for the making of State home grants by the Veterans' Administration to pay 50 percent of the costs of constructing new nursing-care facilities, expanding or remodeling buildings for use as nursing-care facilities, and initially equipping such facilities. Public Law 91–178, enacted on December 30, 1969, established a separate grant-assistance program providing 50-percent Federal funding for the remodeling of existing State home hospital and domiciliary care facilities and authorized an annual appropriation of $5 million for such grants. Subsequently, the enactment of Public Law 93–82 on August 2, 1973, raised the maximum amount of VA participation in the construction of individual projects in both the nursing home and the

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domiciliary and hospital facility programs from 50 percent to 65 percent.

The last substantive amendments to the State home construction authorities were made by Public Law 95–62, enacted on July 5, 1977, which consolidated the two programs into a single grant authority under subchapter III of chapter 81 of title 38 (including authority with respect to construction of State nursing-home-care facilities), increased the annual authorization of appropriations for the consolidated program to $15 million, and increased the aggregate amount of the sums appropriated under the program that any one State could receive in any given fiscal year from 20 percent to one-third. Using this grant authority, the VA, from fiscal year 1966 through fiscal year 1981, has obligated funds in excess of $108 million to 32 States for State home construction grants.

The provision in the Committee bill to extend this authority is based on S. 2383, introduced by Senator Simpson on April 15, 1982, at the request of the Administrator, and section 9 of S. 2389. The Administrator's March 17, 1982, letter of transmittal accompanying the draft bill, which would amend section 5033(a) of title 38, United States Code, requested that the authorization of appropriations for grants to States for the construction, remodeling, or renovation of State home facilities be extended for 4 more fiscal years through fiscal year 1986, at "such sums as may be necessary" annually to carry out the program. The VA provided the following justification for extension of the program:

> The State home program has long been recognized as a high-quality cost-efficient alternative to the provision of extended care in VA facilities. Current VA plans anticipate continued growth in the State home program to help meet the future demand for extended health care by the aging veteran population. It is clear that much needs to be done to prepare for the increasing number of elderly veterans who will require extended care prior to the end of this decade. About a threefold increase in the number of such veterans is foreseen over the next fifteen years. The Administrator is requesting $18 million for the State home program for Fiscal Year 1983.

The Committee shares the view of the VA that much needs to be done to prepare for the rapidly growing numbers of elderly veterans and believes that the State home program represents a proven and cost-effective means of providing care, especially nursing home and domiciliary care, to substantial numbers of elderly veterans and, in some cases, family members of veterans.

Exchange of Medical Information Program

Section 9 of the Committee bill, derived from section 10 of S. 2389 as introduced, would amend section 5054(b) of title 38, United States Code, relating to the permanent program for the exchange of medical information between VA health-care facilities and other health-care facilities in surrounding communities, to expressly include State veterans' home facilities in the phrase "medical community."

The Committee believes that amending section 5054(b), rather than section 5054(a)—as was proposed by the Administrator in draft legislation transmitted to the Senate by a March 17, 1982, letter—would provide that any such exchange of medical information arrangement between the VA and a State veterans' home would include a provision for reimbursement, and it is the Committee's belief that the VA should—to the extent appropriate under section 5054(b)—charge States participating in such exchanges of information since the States would benefit greatly from this availability of added resources through a Federal agency. Any proceeds to the Federal Government resulting from such arrangements should be credited to the applicable Veterans' Administration medical appropriation account.

With further reference to the VA's Exchange of Medical Information efforts, the Committee notes that the agency's authority, in section 5055 of title 38, to make grants to medical schools for the purpose of establishing pilot exchange of information programs expires at the end of the current fiscal year and that the Administration is not proposing any extension of this authority.

The VA, in its testimony before the Committee in the hearing on April 21, 1982, commented on this expiration:

> At the end of this fiscal year, the authorization for appropriations for exchange-of-medical-information grants expires. This authorization to fund pilot programs to facilitate the exchange of medical information between VA facilities and other medical institutions originated with Public Law 89–785, enacted in 1966. The exchange of medical information authority, of which grants are just a part, was intended to help create an environment of academic medicine in VA hospitals, especially those in remote areas. The grants were to be used for such purposes as the employment of personnel, the construction of facilities, and the purchase of equipment to develop and carry out medical information programs.
>
> In the past 15 years, 64 pilot projects, including 17 grants, have been funded. As projects have become operational, continuing support has been provided by other funding sources.
>
> The exchange of medical information program has been successful in the past in helping to create academic links between relatively-remote VA hospitals and major medical centers. Now—15 years after its start—the pilot grant program has essentially accomplished its purpose.
>
> Expiration of this grant authority does not deprive the VA of the authority (under section 5054) to enter into agreements to share medical information. Under section 5054, we have broad authority, separate and apart from the grant authorization, by which VA medical centers could initiate agreements locally to share specialized medical resources. There would appear to be an incentive to engage in such sharing because reimbursements are credited to the medical appropriation. Our challenge is to apply that authority and develop agreements for exchange of medical information services with the surrounding medical community where beneficial.

The Committee accepts this analysis and does not therefore recommend any extension of this authority.

Publishing Regulations for Review and Comment

Section 10 of the Committee bill, derived from section 11 of S. 2389, would require the Administrator, within 90 days after the date of enactment of the Committee bill, to publish in the Federal Register, for a 60-day public review and comment period, proposed regulations for the implementation of the authority provided in section 4107(e)(10) of title 38, United States Code, to increase amounts and, as proposed in section 3 of the Committee bill, to extend periods of additional pay, and, in section 4107(g), to increase rates of basic pay.

Under this section of the Committee bill, the Administrator would be required to publish final regulations, pursuant to which such authorities will be implemented, within 210 days from the date of the enactment of the Committee bill.

It is the Committee's intent, with these provisions, to ensure that the Administrator utilize fully as soon as possible the authority, originally provided in Public Law 96–330 which was enacted in August 1980, and now as proposed to be enhanced in section 3 of the Committee bill, to aid in the recruitment and retention of VA health-care personnel.

Effective Date

Section 11 of the Committee bill would provide that the amendments made by the bill would take effect on the date of enactment, with the exception of the amendment to the CHAMPVA authority proposed to be made by section 5, which would take effect on October 1, 1982.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $11.3 million in fiscal year 1983; $13 million in fiscal year 1984; $17.9 million in fiscal year 1985; $22.8 million in fiscal year 1986; and $24.1 million in fiscal year 1987. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 12, 1982

1. BILL NUMBER: S. 2385

2. BILL TITLE:

Veterans Administration Health-Care Programs Improvement and Extension Act of 1982.

3. BILL STATUS:

As ordered reported by the Senate Committee on Veterans' Affairs, April 28, 1982.

4. BILL PURPOSE:

To enhance the recruitment and retention of nurses and other health-care personnel in the Veterans Administration (VA), to improve the VA health professional scholarship program, to extend the authorization of certain VA health-care programs, and for other purposes.

5. COST ESTIMATE:

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Estimated Authorization Level	31.3	20.9	23.3	25.3	4.2
Estimated Outlays	11.8	13.0	17.9	22.8	24.1

The cost of this bill would fall in budget function 700.

6. BASIS FOR ESTIMATE:

The following section-by-section analysis addresses only those sections that could be expected to have a budgetary impact. Unless stated otherwise, all sections are assumed to take effect on July 1, 1982.

Section 2: This section would modify the requirements of the VA health professional scholarship program to permit scholarships to be awarded for part-time study. Part-time scholarships could only be awarded, however, to individuals who, at the time of application, are employed at a VA medical facility.

According to sources in VA, this amendment would not affect total spending for the scholarship program. VA would instead reallocate to part-time students a certain portion of the scholarship awards currently planned. This section is, therefore, not expected to have a significant budgetary impact.

Section 3: This section would authorize the use by VA of several different plans to provide increased pay and/or more convenient working schedules for nurses in VA medical facilities. Each plan could be utilized on a nationwide, local, or other geographic basis, as determined necessary by the Administrator for the recruitment and retention of nurses. The three plans are:

1. The extension of 25 percent premium pay (authorized under current law only for Sunday shifts) to include Saturday tours of duty.

2. The authorization of flexible and compressed work schedules, as prescribed in regulations pursuant to section 305 of the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (Public Law 95-390). The use of flexible and compressed work schedules would be authorized for any category of health-care personnel when needed for recruitment or retention.

3. The authorization of a plan under which nurses who work two twelve-hour shifts on a weekend would be compensated as if they had worked a full forty-hour work week (Baylor Plan).

In addition, Section 3 would grant the Administrator the flexibility to approve on a geographic basis increases in the rates of additional pay for night, Sunday, holiday and overtime work. Currently, such increases must be approved facility by facility.

(by fiscal year, in millions of dollars)

	1982	1983	1984	1985	1986	1987
Plan 1						
Estimated						
Authorization Level	*	1.2	1.3	1.3	1.3	1.3
Estimated Oultays	*	1.2	1.3	1.3	1.3	1.3
Plan 2						
Estimated						
Authorization Level	-1.0	-2.8	-2.7	-2.6	-2.5	-2.5
Estimated Outlays	-1.0	-2.8	-2.7	-2.6	-2.5	-2.5
Plan 3						
Estimated						
Authorization Level	0.0	0.0	1.3	2.6	3.9	4.0
Estimated Outlays	0.0	0.0	1.3	2.6	3.9	4.0
Geographic Approvals						
Estimated						
Authorization Level	1.0	2.0	1.5	1.0	*	*
Estimated Outlays	1.0	2.0	1.5	1.0	*	*
Section 3 Total						
Estimated						
Authorization Level	*	*	1.4	2.3	2.7	2.8
Estimated Outlays	*	*	1.4	2.3	2.7	2.8

*Less than $500,000.

Based on VA information, the above estimate assumes that VA would utilize a mixture of the authorized plans. VA sources indicate that the agency would utilize compressed work schedules (Plan 2) to a far greater extent than the other options. During the experiment with compressed work schedules authorized by P.L. 95-390, VA found the program to be a highly attractive incentive in the recruitment and retention of nurses. In addition, rather than increasing salary costs, the experimental program resulted in a savings, due to a decrease in overtime costs. It was assumed for this estimate that approximately 60 percent of the nursing staff would be included in this plan initially, dropping to 50 percent in the outyears as some facilities begin to implement Plan 3.

VA has identified 15 of their facilities that are located in communities where plan 3, the Baylor Plan, is usually offerred to nurses in non-federal hospitals. Sources within VA have indicated that the agency would probably utilize plan 1, Saturday premium pay, in these facilities at the outset and only resort to the Baylor Plan if plan 1 failed to resolve their recruitment and retention difficulties. The estimate above assumes that the Baylor Plan would be offerred in no facilities in fiscal year 1983, and in 5, 10, 15 and 15 facilities, respectively, in fiscal years 1984, 1985, 1986 and 1987. When fully operational in all 15 facilities, the Baylor Plan is estimated to require additions to the nursing staff of 264 FTEE (full-time equivalent employees).

Saturday premium pay (Plan 1) was assumed to be implemented initially only in the 15 facilities currently competing in Baylor Plan communities. As these facilities begin operating under the Baylor Plan, it was assumed that the use of Saturday premium pay would be switched to other facilities. (It was assumed that Saturday premium pay would not be used in facilities offering the Baylor Plan).

The Administrator of VA has authority under current law to increase any of the additional pay rates (provided for night, Sunday, holiday, and overtime work) on a facility-by-facility basis, as necessary for the recruitment and retention of nurses. While the authorization of approvals for all facilities in a particular geographic or regional area would undoubtedly speed up the approval process, it was assumed that no facilities would be approved for increases as a result of this amendment that would not have been approved eventually under current law.

The following methodological assumptions were made in connection with the estimates of the provisions of section 3:

- The total registered nursing staff was assumed to be 22,000 in all years.
- Weekend hours were assumed to be staffed at 63 percent of the weekday level.
- Night shifts were assumed to be staffed at 80 percent of the relevant daytime level.
- Based on VA data, the average salary level for a VA nurse was assumed to be $22,073 per annum. Since the salaries of VA medical personnel are established in title 38, U.S.C., nurses salaries were not inflated for federal cost-of-living pay raises but were increased by 1.5 percent a year for merit pay increases.
- Overtime was assumed to be paid for 10 percent of weekend hours and 3 percent of Monday-Friday hours.

Section 4(1): This section would authorize the Administrator to provide outpatient care under contract from private facilities to women veterans with medical conditions related to their gender that cannot be appropriately treated in VA facilities.

Since only 1.6 percent of the veteran patients discharged from VA facilities during fiscal year 1980 were women, it is unlikely that this provision would result in a significant cost.

Section 4(2): This section would also extend for one year the authority of the VA to provide health care by contract in the Commonwealth of Puerto Rico and the Virgin Islands.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Estimated Authorization Level	13.2	0.0	0.0	0.0	0.0
Estimated Outlays	10.6	2.6	0.0	0.0	0.0

The above figures represent the cost estimated by VA of providing contract health care in Puerto Rico and the Virgin Islands. These funds are included in VA's 1983 appropriation request.

Section 5: This provision would reestablish eligibility to the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) for individuals who lose their eligibility by virtue of becoming entitled to Medicare, but who subsequently exhaust their Medicare benefits. This provision would take effect on October 1, 1982.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Estimated Authorization Level	1.0	1.1	1.2	1.3	1.4
Estimated Outlays	1.0	1.1	1.2	1.3	1.4

The VA maintains that, because this program is administered by the Civilian Health and Medical Program of the United States (CHAMPUS), they do not have sufficient information on CHAMPVA beneficiaries to estimate the cost of this proposal. The Office of CHAMPUS, however, has prepared a cost estimate of a related measure, S. 1665, which would make CHAMPUS and CHAMPVA secondary payers to Medicare when their beneficiaries become entitled to that program. S. 1665, which was estimated to involve an additional cost to CHAMPVA of $3.6 million, would be considerably more costly than the section 5 provision. As a secondary payer, CHAMPVA would be required to pick up all the deductible and co-insurance payments charged to Medicare beneficiaries before their benefits are exhausted, as well as the cost of their care afterwards. Since few Medicare beneficiaries actually exhaust their benefits, it is expected that the additional cost to CHAMPVA of section 5 would be no more than $1 million in fiscal year 1983. This cost was inflated in the outyears by the CBO projection of the increases in the costs of medical services.

Section 8: This section extends through fiscal year 1986 the authorization of the appropriation of such sums as may be necessary for grants to states for the construction of state extended care facilities, where such facilities are needed to provide adequate nursing home care to veterans residing in the state.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Estimated Authorization Level	17.1	18.4	19.8	21.3	0.0
Estimated Outlays	0.2	7.9	14.4	18.8	19.9

The anticipated appropriation levels for fiscal years 1983-1986 were estimated by inflating the amount appropriated for fiscal year 1982 by CBO's medical care facility construction cost index. Appropriated amounts were assumed to outlay according to historical spending patterns.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director for
Budget Analysis Division

Regulatory Impact Statement

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

A. *Estimate of the number of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses:* The Committee bill consists of nine substantive provisions, one of which (section 7) is a technical amendment and thus has no regulatory impact.

Of the other eight substantive provisions in the Committee bill, three (clause 2 of section 4 and sections 6 and 8) would amend current law to extend existing programs or authorities. None of these provisions would result in any significant regulatory authority beyond the modifications, where appropriate, of existing regulations to reflect the extensions.

Two other provisions (clause (1) of section 4 and section 5) would modify existing eligibility requirements for various VA health-care authorities and would require no regulatory activity beyond modifications to existing regulations, where appropriate, to reflect the changes.

One provision (section 9) would amend current law to specify that State veterans' homes may participate in exchange of medical information programs and should require no regulatory activity except as necessary to reflect this addition.

Finally, three provisions (sections 2, 3, and 10) relate to various efforts to enable the VA to improve its recruitment and retention of health-care personnel, especially registered nurses, and, although the agency will issue regulations to implement the various authorities, no individuals or businesses will be regulated as a result of such actions.

B. *Determination of the economic impact of such regulations on individuals, consumers, and the businesses affected:* Since, as previously indicated, there would be no such regulation, there would be no such impact.

C. *Determination of the impact on the personal privacy of the individual affected:* The enactment of the Committee bill would not significantly increase the impact on the personal privacy of participants in any of the programs involved.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:* There is no significant increase in paperwork likely to result from regulations to be promulgated under the Committee bill.

Section-by-Section Analysis of S. 2385 as Reported

Section 1—SHORT TITLE

Subsection (a) of section 1 would provide that the Committee bill may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

Subsection (b) of section 1 would provide that, whenever in the Committee bill an amendment or repeal is expressed in terms of an

amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, relating to veterans' benefits.

Section 2—HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Subsection (a) of section 2 would amend present section 4142 of title 38 relating to eligibility criteria for participation in the Veterans' Administration's Health Professional Scholarship Program and the terms of the contracts under which scholarship assistance is provided, to authorize the Administrator to provide scholarship assistance to VA employees attending school on a part-time basis and to clarify that the amount of the stipend to be paid to a participant under the program may be modified so that the Administrator can limit to tuition reimbursement and a nominal stipend its payments to a VA employee participating in the scholarship program as a part-time student. Thus, the Committee bill would provide a basis for current VA health-care personnel, such as registered nurses and licensed vocational nurses, to be afforded the opportunity to receive financial assistance for further educational pursuits on less than a full-time basis while remaining employed in the VA on a full- or part-time basis.

Clause (1) of subsection (a) of section 2 would amend subsection (a)(1) of present section 4142, relating to criteria for eligibility to participate in the Scholarship Program—which currently limits participation to individuals pursuing their education on a full-time basis—to permit a VA employee permanently assigned to a VA health-care facility to receive scholarship assistance for part-time, but not-less-than-half-time, study.

Clause (2) of subsection (a) of section 2 would amend subsection (f)(3) of present section 4142, relating to periodic cost-of-living-type adjustments in the amount of the monthly stipened payable to participants in the Scholarship Program as specified in subsection (f)(1)(B) (up to $555 per month at present), to insert the adjective "maximum" before the phrase "amount of monthly stipend" so as to clarify that the Administrator may pay monthly stipends in amounts up to the specified amount specified in subsection (f)(1)(B) or some lesser amount. As a result, for example, the Administrator, in the case of a VA employee participating in the program on a part-time-study basis, could—based on the employee's salary or other factors, such as the possible desirability of making limited scholarship funds available to as many individuals as possible—pay a stipend below the maximum amount. Thus, if the Administrator were to decide on a nominal stipend for a VA employee, the scholarship would be, in effect, a tuition-reimbursement plan—a form of assistance that could enable the VA to be more competitive with non-VA health-care facilities that offer programs of tuition reimbursement to their employees. Presently, such tuition reimbursement is generally not available under the general authority in chapter 41 of title 5, United States Code, pursuant to which Federal employees receive training support unless it is determined under the regulations implementing that authority that the training would result in the professional development of the employee,

a result not generally reached in the case of a registered nurse pursuing a baccalaureate degree in nursing.

Clause (3) of subsection (a) of section 2 would redesignate subsections (g), (h), and (i) of present section 4142 as subsections (h), (i), and (j), respectively.

Clause (4) of subsection (a) of section 2 would further amend present section 4142 by adding a new subsection (g), as follows:

New subsection (g): Would modify various Scholarship Program elements in the case of a part-time-student participant.

Paragraph (1) of new subsection (g): Would—in the case of a part-time-student participant and subject to provisions in paragraph (2) of the new subsection—provide that (A) the period of time for which a scholarship may be awarded under section 4142(e)(1)(A)(i) (a period of from 1 to 4 years in the case of a full-time-student participant) shall be increased, (B) the period of obligated service under section 4142(e)(1)(B)(iv) (one calendar year for each school year for which as participant received a scholarship or 2 years, whichever is greater, in the case of a full-time-student participant) shall be reduced, and (C) the maximum amount of the monthly stipend payable under section 4142(f)(1)(B) ($555 at present (subject to annual adjustments) in the case of a full-time-student participant) shall be reduced. Such increase and reductions would be computed in accordance with the proportion that the number of credit hours carried by the part-time-student participant bears to the number of credit hours carried by a full-time-student participant in the course of training.

Subparagraph (A) of paragraph (2) of new subsection (g): Would generally limit the maximum period of time for which a scholarship could be awarded to a part-time-student participant to 4 school years except that the Administrator could extend the period by 2 years when such an extension would be in the best interests of the United States—subject to the part-time-student participant maintaining an acceptable level of academic standing. Thus, in those instances in which a VA employee participating in the Scholarship Program on a part-time study basis needs more than 4 years of part-time (limited to half-time or more under the amendment proposed to be made by subsection (a)(1) of this section of the bill) study in order to complete a course of training, the Administrator would be able to extend the period by up to 2 years.

Subparagraph (B) of paragraph (2) of new subsection (g): Would provide that the minimum period of obligated service of a part-time student participant would be 1 year.

Paragraph (3) of new subsection (g): Would preclude the payment of a stipend to a part-time-student participant for any month during which the participant is not actually attending the course of training.

Clause (5) of subsection (a) of section 2 would amend subsection (h) (as proposed to be redesignated by clause (3) of subsection (a) of this section of the bill) of present section 4142, relating to the exclusion of Scholarship Program participants from determinations of compliance with VA employment ceilings, to limit the application of that exclusion to full-time-student participants. Thus, part-time-student participants, all of whom would be VA employees, would be counted (as employees—either full- or part-time as the case might be—as

under current law and practice) in any employee ceiling determinations.

Subsection (b) of section 2 would amend present section 4143(c), relating to the time at which a Scholarship Program participant's obligated service is considered to begin—the date of appointment as a full-time employee in the VA's Department of Medicine and Surgery—to specify that, in the case of a part-time-student participant (who would already be a VA employee at the outset of training), the date of appointment as a full-time employee in the VA's Department of Medicine and Surgery from which the period of obligated service is computed would be the date of appointment at the completion of the participant's course of training.

Subsection (c) of section 2 would amend present section 4146, relating to the Administrator's authority in a fiscal year to make payments under the Scholarship Program, by adding a new subsection (b), as follows:

New subsection (b): Would provide that sums appropriated for the purpose of making payments under the Scholarship Program shall remain available for that purpose until expended and thus would enable the Administrator to make multi-year scholarship commitments to participants.

Section 2—Cost: Enactment of the provisions of section 2 is estimated to entail no significant costs.

Section 3—ADDITIONAL PAY PROVISIONS

Would amend present section 4107 of title 38, relating to the pay of VA Department of Medicine and Surgery (DM&S) personnel employed under the DM&S title 38 personnel system.

Clause (1) of section 3 would amend paragraph (10) of subsection (e) of present section 4107, relating to the Administrator's authority to modify rates of additional pay for registered nurses employed in VA facilities under title 38, to give the Administrator discretionary authority to extend the period for which additional pay is paid to nurses under paragraph (5) of that subsection for certain work on a weekend—presently limited to a period of work that occurs at least in part on a Sunday—to include some or all of a shift that occurs on a Saturday. This clause of the bill would also amend current section 4107(e)(10) to provide that any increase in rates of additional pay or any extension of time for which additional pay may be paid under paragraph (5) of such section, may be made on a nationwide, local, or other geographic basis provided that a specified finding has been made of the need for such change.

Clause (2) of section 3 would amend section 4107 by adding new subsections (h) and (i), as follows:

Paragraph (1) of new subsection (h): Would authorize the Administrator, upon a determination that it is necessary in order to recruit or retain categories of title 38 health-care personnel—physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries—or of other VA employees in DM&S—appointed under the civil service authorities in title 5, United States Code—providing direct patient care services or services incident to direct care services, to permit the use by such health-care personnel, on a nationwide, local, or other geographic basis, of flexible and compressed work schedules such as were described in regulations

(Part 620, "Alternative Work Schedules Experiments", of title 5, Code of Federal Regulations) and guidelines (Book 620, "Alternative Work Schedules", of FPM Supplement 990–2), issued on November 30, 1979, and September 30, 1980, respectively, by the Director of the Office of Personnel Management in order to carry out titles I—Flexible Scheduling of Work Hours—and II—4-Day Week and Other Compressed Work Schedules—of the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95–390. The Committee intends that in the event that the authorities provided in Public Law 95–390 are extended or there is other legislative action in this area and OPM issues further regulations or guidelines, or both, which provide greater flexibility or ranges of options, the Administrator will not be precluded by the authority in this new subsection from utilizing the broader authority in such regulations or guidelines, or both. Similarly, the Administrator would not be precluded from using the authority in this new subsection in the event that there is subsequent legislation and OPM regulations/guidelines that are narrower than the prior regulations/guidelines.

Paragraph (2) of new subsection (h): Would require the Administrator, not later than 180 days after the date of the enactment of the Committee bill, to prescribe regulations—to the maximum extent feasible consistent with the regulations and guidelines issued under the 1978 Act—to carry out the authority proposed to be provided in paragraph (1) of this new subsection.

Paragraph (3) of new subsection (h): Would provide the Administrator's authority to establish flexible and compressed work schedules pursuant to this subsection would expire at the end of fiscal year 1987.

Paragraph (4) of new subsection (h): Would require the Administrator, not later than 4 years after the date of the enactment of this bill, to report to the Congress on the results of the use by the VA of flexible and compressed work schedules authorized pursuant to this subsection and otherwise, including an evaluation of the effects of the use of such schedules on the recruitment and retention of health-care personnel using them, together with recommendations for administrative or legislative action, or both, based on the VA's use of and need for such schedules.

New subsection (i): Would authorize the Administrator, when necessary to recruit or retain registered nurses in DM&S, to allow nurses at individual VA facilities, subject to certain specified limitations relating to rates of pay and computations of leave, to work two regularly-scheduled 12-hour tours of duty during a weekend and have such service be considered a full 40-hour workweek.

Paragraph (1) of new subsection (i): Would authorize the Administrator, when necessary to obtain or retain at any VA health-care facility the services of registered nurses appointed in DM&S under chapter 73 of title 38, to provide, pursuant to regulations prescribed by the Administrator, that nurses employed at that facility who work two regularly-scheduled 12-hour tours of duty within a weekend—the period commencing at midnight Friday and ending at midnight Sunday—shall be considered for all purposes, except for computing full-time equivalent employees for employment ceiling purposes and for certain overtime pay purposes, to have worked a full 40-hour workweek.

Subparagraph (A) of paragraph (2) of new subsection (i): Would provide that a nurse who works two regularly scheduled 12-hour tours of duty during a weekend and who is considered pursuant to this new subsection to have worked a full 40-hour workweek shall be entitled to basic and additional pay and annual and sick leave as prescribed in the subsequent subparagraphs of this paragraph.

Subparagraph (B) of paragraph (2) of new subsection (i): Would provide that such nurse's hourly rate of basic pay for service during a regularly-scheduled 12-hour tour of duty on a weekend shall be determined by dividing the nurse's annual rate of basic pay by 1,248 (which yields a salary rate one and two-thirds (the relationship that 40 is to 24) the rate that such nurse would receive for work on a regular 40-hour week schedule); and would provide that the hourly rate for service at times other than during such a regularly-scheduled 12-hour tour of duty on a weekend shall be determined by dividing the nurse's annual rate of basic pay by 2,080—the number of hours worked over fifty-two 40-hour weeks—(which yields the standard hourly rate for a 40-hour week). Thus, a nurse who is employed by the VA at step one of the full grade at a salary of $19,477 at present would be paid $9.36 an hour for each hour worked during a regular 40-hour week and $15.61 for each hour worked during a regularly-scheduled tour of duty on a weekend under this new subsection.

Subparagraph (C) of paragraph (2) of new subsection (i): Would provide that, except as otherwise provided in this subparagraph (C), a nurse who works two regularly-scheduled 12-hour tours of duty during a weekend and who is considered pursuant to this new subsection to have worked a full 40-hour workweek would *not* be entitled to additional pay for work outside of a regular workday or workweek, for any period included in either of such nurse's regularly-scheduled 12-hour tours of weekend duty. Such a nurse *would* be entitled to additional pay under subsection (e)(5) of present section 4107, relating to pay for overtime service, for any period of service beyond the two regularly-scheduled 12-hour tours of weekend duty when (1) the total officially ordered or approved service during the nurse's administrative workweek (the period from Sunday to Saturday) is in excess of 40 hours (for a nurse having worked two regularly-scheduled 12-hour tours of duty on a weekend who then worked regular 8-hour tours of duty on four or more days during the remainder of the week, overtime pay would be paid beginning after 4 hours of work on the fourth such 8-hour day), (2) is in excess of 8 hours on a day other than a Saturday or a Sunday, or (3) is in excess of 24 hours within the weekend period during which the two regularly-scheduled 12-hour hours of duty are worked.

Subparagraph (D) of paragraph (2) of new subsection (i): Would provide that a nurse who is absent on approved sick leave or annual leave during a regularly-scheduled 12-hour tour of duty on a weekend shall be charged for such leave at a rate of 5 hours of leave for 3 hours of absence. Thus, a nurse absent on approved sick leave or annual leave for all of a regularly-scheduled 12-hour tour of duty on a weekend would be charged for 20 hours of leave.

Section 3—Cost: Enactment of the provisions of section 3 is estimated to entail costs of less than $500,000 in fiscal year 1983.

Section 4—CONTRACT CARE

Would amend clause (C) of paragraph (4) of present section 601 of title 38, which defines "Veterans' Administration facilities" to include, under the circumstances described in such clause (C), private facilities and, thus, in conjunction with certain other provisions of such chapter 17, provides authority for the furnishing of contract hospital care and medical services (so-called "fee" care or "fee-basis" care) under those same circumstances.

Clause (1) of section 4 would amend present section 601(4)(C)(iv), relating to the Administrator's authority to provide hospital care on a fee basis to women veterans, to expand that authority so as to allow the Administrator to provide, on a fee basis, such outpatient medical services as (by virtue of the reference to "Veterans' Administration facilities" in section 612(f)(1)(A)) are needed pre- or post-hospitalization or that will obviate the need for hospital admission or post-hospitalization (by virtue of such reference in section 612 (f)(1)(B)) for non-service-connected, gender-related disabilities of a woman veteran which the VA is not able itself to treat.

Clause (2) of section 4 would amend present section 601(4)(C)(v), relating to the Administrator's authority to provide fee-basis hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for 1 year—from September 30, 1982, until September 30, 1983,—the VA's contract authority, in the Commonwealth of Puerto Rico and the Virgin Islands and other Territories and possessions of the United States, to provide for non-service-connected disabilities, hospital care and such medical-care services as will obviate the need for hospital admission.

Section 4—Cost: Enactment of the provisions of section 4 is estimated to entail costs of $10.6 million in fiscal year 1983.

Section 5—CHAMPVA ELIGIBILITY REACQUISITION

Would amend present section 613 of title 38, relating to eligibility for medical care through the CHAMPVA program for the survivors and dependents of certain severely disabled service-connected disabled veterans, to provide for a reinstatement of CHAMPVA eligibility if an individual, after losing CHAMPVA eligibility by virtue of becoming eligible for hospital insurance benefits under part A of Medicare, exhausts some or all such Medicare eligibility. Under current law, present section 613(b) of title 38, CHAMPVA benefits (described below) are provided on the same or similar basis as CHAMPUS benefits (health-care benefits in private facilities for retired members and dependents of active-duty and retired members of the Armed Forces). Consequently, the second sentence of section 1086(e) of title 10, United States Code, which provides for the termination of eligibility for CHAMPUS benefits when a CHAMPUS beneficiary becomes eligible for the Medicare benefit applies to CHAMPVA beneficiaries.

Clause (1) of section 5 would amend present section 613(b) to add a cross-reference to new subsection (d) as proposed to be added by clause (2) of this section of the Committee bill.

Clause (2) of section 5 would amend present section 613(b) to add a new subsection (d), as follows:

New subsection (d): Would provide that, notwithstanding the second sentence of section 1086(c) of title 10 (discussed above) or

any other provision of law, any person eligible for CHAMPVA benefits—a spouse or child of veteran who has a 100-percent permanent service-connected disability or the surviving spouse or child of a veteran who at the time of death, had such a 100-percent disability or who died as the result of a service-connected disability—shall, after losing eligibility for CHAMPVA benefits by virtue of becoming eligible for hospital insurance benefits under part A of Medicare, regain CHAMPVA eligibility after exhausting any Medicare benefits and shall not thereafter, lose eligibility for CHAMPVA benefits by becoming again eligible for Medicare benefits.

Section 5—Cost: Enactment of the provisions of section 5 is estimated to entail costs of $1 million in fiscal year 1983.

Section 6—REPORT EXTENSION

Would amend subsection (f) of present section 620A of title 38, relating to the report of the Administrator on the pilot program for the treatment and rehabilitation for alcohol or drug dependence or abuse disabilities being conducted under that section, to extend the due date of the report 1 year—from March 31, 1983, to March 31, 1984—and to extend the end date of the period of operations under the pilot program to be covered in the report—from September 30, 1982, to September 30, 1983.

Section 6—Cost: Enactment of the provisions of section 6 is estimated to entail no costs.

Section 7—TECHNICAL AMENDMENT

Would amend present section 643 of title 38, relating to payments to State veterans' homes for care provided to eligible veterans, to strike an anachronistic reference to service during a period of war as an eligibility factor for such payments and thereby conform this section to section 641, which sets forth the criteria for payments by the VA to State veterans' homes. This is purely a technical amendment since the VA does not now ascribe any limiting significance to the words to be stricken.

Section 7—Cost: Enactment of the provisions of section 7 is estimated to entail no costs.

Section 8—STATE VETERANS HOME GRANTS

Would amend present section 5033(a) of title 38, relating to the authorization of appropriations for the making of grants to States for the construction of State veterans' home facilities to furnish domiciliary or nursing home care to veterans or to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes, to extend for 4 fiscal years—through the fiscal year ending September 30, 1986—the current authorization of appropriations (at a level of "such sums as may be necessary").

Section 8—Cost: Enactment of the provisions of section 8 is estimated to entail costs of $200,000 in fiscal year 1983.

Section 9—MEDICAL INFORMATION EXCHANGE WITH STATE HOMES

Would amend present section 5054(b) of title 38, relating to the Administrator's authority to make available for use by non-VA medical facilities, particularly those near VA facilities in remote areas, VA

educational facilities and programs and the VA electronic communications capability linking such VA facilities to major medical centers and to charge a fee for services, to include an express reference to State veterans homes as part of the surrounding medical community eligible to participate in such medical information programs.

Section 9—Cost: Enactment of the provisions of section 9 is estimated to entail no significant costs.

Section 10—REGULATIONS FOR SPECIAL PERSONNEL AUTHORITIES

Would require the Administrator, within 90 days after the date of the enactment of the Committee bill, to publish in the Federal Register, for a 60-day public review and comment period, proposed regulations for the implementation of the authorities in section 4107(e)(10) (as proposed to be amended in part by section 3 of the Committee bill) to increase rates of additional pay and (as proposed to be provided in section 3 of the Committee bill) to extend the period within which additional pay is paid and the authority in present section 4107(g) to increase rates of basic pay for certain health-care personnel. The Administrator would be required to publish final regulations within 210 days after the date of enactment. The authorities in sections 4107(e)(10) and 4107(g) were enacted on August 26, 1980, and the VA has not yet issued regulations to implement these new authorities.

Section 10—Cost: Enactment of the provisions of section 10 is estimated to entail no significant costs.

Section 11—EFFECTIVE DATES

Would provide that, with the exception of the changes in eligibility for the CHAMPVA program in section 5 of the Committee bill, which would be made effective on October 1, 1982, the provisions of the Committee bill would become effective on the date of its enactment.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or proxy by Members of the Committee on Veterans' Affairs at an April 28, 1982, meeting to consider S. 2385.

The Committee agreed to report S. 2385, with an amendment in the nature of a substitute, and a title amendment, favorably to the Senate by a 12–0 vote, as follows:

YEAS—12	NAYS—0
Alan Simpson	
Strom Thurmond	
Robert Stafford	
Bob Kasten	
Jeremiah Denton	
Frank Murkowski	
Arlen Specter	
Alan Cranston	
Jennings Randolph	
Spark Matsunaga	
Dennis DeConcini	
George Mitchell	

Agency Reports

In lieu of a report on S. 2385 from the Veterans' Administration the full statement of the Acting Associate Chief Medical Director of the Veterans' Administration, appearing before the Committee on April 21, 1982, is included to express that agency's views on that measure. The prepared statement follows:

Statement of Dr. D. Earl Brown, Acting Associate Deputy Chief Medical Director, Department of Medicine and Surgery, Veterans' Administration

Mr. Chairman and Members of the Committee: I am pleased to be here this morning to testify on expiring program authorities, related legislative initiatives, and issues involving nurse recruitment and retention.

STATE HOME PROGRAM EXTENSION AND IMPROVEMENTS ACT

I would like to first discuss VA's proposal to reauthorize the program of grants to States for the construction, remodeling or renovation of State Home facilities. Our draft bill would also facilitate the sharing of VA medical services and information with State Homes and makes certain clarifying and technical amendments affecting the State Home program and the pilot program on drug and alcohol dependence or abuse disabilities.

As you know, Mr. Chairman, the State Home program provides grants for construction or renovation and per diem reimbursements to State-operated homes which furnish hospital domiciliary, and nursing home care for eligible veterans. The VA has long recognized the State Home program as a vital resource for meeting the extended care needs of our aging veteran population. We anticipate continued growth in the State Home program to help meet anticipated increased demand for extended health care. Existing VA facilities lack the needed capacity to meet the demand for extended health care of today's elderly veterans. The VA's 97 nursing homes are filled, and there are long waiting lists for admission to most of them. Some State nursing homes and domiciliaries are also at, or near capacity. It is clear that much needs to be done to prepare for the increasing number of elderly veterans who will require extended care prior to the end of this decade. About a threefold increase in the number of such veterans is foreseen over the next 15 years.

Because it is impossible to predict what funds will be appropriated for the State Home program, we are unable to project the cost to the VA of implementing the program through fiscal year 1986. However, the present request is for $18 million in fiscal year 1983. The actual cost will depend on the level of appropriations funded by Congress.

This draft bill would also amend subsection 5053(a) of title 38, United States Code, to permit the VA to share specialized medical resources with State Veterans' Homes. Sec-

tion 5053 permits the VA to make arrangements by contract or other form of agreement to share the use of specialized medical resources with hospitals, institutions having hospital facilities, medical schools, clinics, and certain other medical installations. This section, however, does not clearly authorize the VA to share such resources with State Homes.

Many State Homes lack the specialized resources to perform laboratory and diagnostic tests which are part of the hospital, nursing home, or domiciliary care furnished eligible veterans. Such State Homes may need to obtain such services through contracting. This amendment would permit the VA to provide such assistance and thereby help these homes provide quality care to veterans. This provision would not result in additional costs for the VA since, under such agreements, State Homes would be charged the full cost of the medical resources provided to them. At the same time, it would in no way limit any veteran receiving care in a State Home from being transferred to a VA medical center for needed hospital care.

The draft bill would amend subsection 5054(a) of title 38, United States Code, to permit the VA to share medical information and techniques with State Veterans' Homes. Section 5054 authorizes the VA to enter into agreements with certain types of facilities and medical professionals which will permit the free exchange of medical information and techniques. State Homes are not now among the types of facilities mentioned in section 5054. By amending subsection 5054(a) to authorize sharing medical information with State Homes, State Homes could gain access to advanced medical information and techniques available in VA medical centers.

Our proposal would also make a technical amendment in connection with the reporting requirement on the VA's pilot contract program for treatment and rehabilitation for alcohol and drug dependence and abuse disabilities. Section 104 of Public Law 96–22, authorized the VA to conduct a broadened treatment and rehabilitation program on a 5-year pilot basis for veterans suffering from alcohol or drug dependence. This section permits the VA to contract for care, treatment, and rehabilitative services for veterans with such disabilities in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. The law also required the Administrator to report to the Veterans' Affairs Committees of the Senate and House of Representatives by March 31, 1983, on the findings and recommendations regarding the operation of the pilot program through September 30, 1982. This report will only analyze the first 2 fiscal years of the 5 fiscal years authorized for the pilot program. Thus, the reporting date of March 31, 1983, will prevent consideration in the report of operational data from the remainder of the pilot period. In addition, the first fiscal year of the pilot program involved only a limited scope of such services. By permitting the VA to analyze in-

formation gathered during 3 fiscal years instead of 2 in its report to the congressional committees, the report's findings and recommendations would be based on longer and more complete experience. Enactment of this section would not involve any additional cost to the VA because it does not extend the operating or reporting period beyond the originally-authorized life of the pilot program.

PER DIEM PAYMENTS TO STATE HOMES

Mr. Chairman, we understand that in the Committee's consideration of legislation to extend the State Home Construction Grant Program, you intend to review legislation to establish a formula to compute VA per diem rates. Section 641 of title 38, United States Code, prescribes the specific per diem rates to be paid by the Veterans' Administration to State Home domiciliaries, nursing homes, and hospitals for the care of veterans eligible for this care in a VA facility. S. 1034, a bill pending before the Committee, would provide that the per diem cost for each such mode of care would be 30 percent of the average per diem costs for the respective care in VA facilities for the preceding fiscal year, but not to exceed one-half the current per diem cost of a veteran's care in a State Home. Because of programmatic as well as budgetary concerns, we oppose enactment of this measure.

Periodically, legislation has been enacted to increase the per diem rates for State veterans homes. However, it appears that this bill would provide a "built-in" mechanism to automatically increase the per diem based on 30 percent of per diem cost for similar VA facilities during the preceding fiscal year, not to exceed one-half (50 percent) of the current total cost of care for veterans in State Homes. Based on our own calculations as well as those of the General Accounting Office, enactment of this bill would also result in VA's funding more than 30 percent of the total costs of many State Homes. This was not the intent of the State Home Program nor is it in keeping with the Administration's goal of clearly distinguishing between the appropriate role of the State and the Federal Government. This participation would not include other forms of Federal contributions to the veterans or to the State Homes on their behalf such as pension, aid and attendance, medicare, or medicaid. In fact, it should be noted that State Homes have the right to collect from these sources to offset their costs of support to the veteran.

While we may agree in principle that periodic increases for nursing home care and domiciliary care for State Homes may be justified, we are unaware of any studies justifying a per diem rate ranging from 30 percent of VA's cost to 50 percent of the State's cost figure. Further, we are concerned that with the severe budgetary constraints we are facing and our commitment to reducing all unnecessary spending, the additional costs to the VA mandated by this bill could force decreases in

other areas of the medical care budget. Our current estimates are that for the next fiscal year, the additional costs to the VA generated by S. 1034 would be approximately $44.9 million, and for the next 5 fiscal years, the total additional costs are estimated at over $241 million.

We have found the current per diem rate structure for State Home care to be straightforward and to have operated adequately. On the other hand, the formula in S. 1034 is dependent on the per diem costs at each State Home and would place administrative burdens and costs on the Veterans' Administration in computing per diem rates for each quarterly claim. Furthermore, this proposal would increase the differences in domiciliary and nursing home per diem rates, which could lead to the conversion of more domiciliary beds to nursing home beds.

In our view, enactment of this bill would not appreciably increase the quality of medical care to veterans in State Homes and we do not favor its enactment.

EMI PILOT GRANT AUTHORITY

At the end of this fiscal year, the authorization for appropriations for exchange-of-medical-information grants expires. This authorization to fund pilot programs to facilitate the exchange of medical information between VA facilities and other medical institutions originated with Public Law 89–785, enacted in 1966. The exchange of medical information authority, of which grants are just a part, was intended to help create an environment of academic medicine in VA hospitals, especially those in remote areas. The grants were to be used for such purposes as the employment of personnel, the construction of facilities, and the purchase of equipment to develop and carry out medical information programs.

In the past 15 years, 64 pilot projects, including 17 grants, have been funded. As projects have become operational, continuing support has been provided by other funding sources.

The exchange of medical information program has been successful in the past in helping to create academic links between relatively-remote VA hospitals and major medical centers. Now—15 years after its start—the pilot grant program has essentially accomplished its purpose.

Mr. Chairman, the expiration of this grant authority (under section 5055 of title 38) does not deprive the VA of the authority (under section 5054) to enter into agreements to share medical information. Under section 5054, we have broad authority, separate and apart from the grant authorization, by which VA medical centers could initiate agreements locally to share specialized medical resources. There would appear to be an incentive to engage in such sharing because reimbursements are credited to the medical appropriation. Our challenge is to apply that authority and develop agreements for exchange of medical information services with the surrounding medical community where beneficial.

GRANTS TO AFFILIATED MEDICAL SCHOOLS

The authorization of appropriations for grants to VA-affiliated medical schools and other health manpower training institutions also expires at the end of this fiscal year. This grant was established pursuant to Public Law 92–541, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972. We view this program as having largely served its purpose. While the program has been beneficial, the need has diminished and additional funding cannot be reconciled with more pressing mandates. In essence, our priority must be on providing quality medical care to eligible veterans.

CONTRACT HEALTH CARE IN PUERTO RICO

Currently, the VA has the authority through the end of this fiscal year to provide, through contracts, or on a fee-for-service basis, hospital care and medical services in Puerto Rico and the Virgin Islands (to obviate the need for hospital care) for the treatment of non-service-connected disabilities of veterans. Provision of authorized care and services is conditioned on the requirement that the annually-determined patient load and the incidence of the provision of medical services for veterans hospitalized and treated by the VA under that authority be consistent with the level of care and service provided within the 48 contiguous states.

The Administrator is authorized to waive that limitation with respect to Puerto Rico and the Virgin Islands. Public Law 95–520 extended the authority to provide this care until December 31, 1981, and also required that the VA conduct and submit to the Congress and the President a report assessing the health-care needs of veterans in Puerto Rico and the Virgin Islands with recommendations on how these needs should be addressed. This report was submitted to the Congress on March 10, 1981.

In assessing veteran health-care needs in Puerto Rico and the Virgin Islands, our report identified a series of problems unique to that locale. These included: (1) Low quantity and quality of non-VA psychiatric care, (2) inadequate ambulatory care facilities, (3) near absence of nursing home beds, and (4) inaccessibility of health care outside the VA. It was also found that because of those unique problems, and because the ratio of service-connected to non-service-connected veterans was higher in Puerto Rico and the Virgin Islands than in the United States, the rate of veteran utilization of VA care in those islands was greater. Our report ultimately did not make any final recommendations, but outlined instead a series of options for the Congress to consider. These specific options reflected the different means by which VA might provide veterans of these islands with hospital, nursing home, and outpatient care, respectively.

With less than a year remaining between the time our report was submitted and the expiration of the contract authority, Congress extended that authority until the end of fiscal year 1982.

We recognize that Congress may not have the time to evaluate this entire issue, including our report and recommendations. For these reasons, we consider it to be prudent that this authority be extended for an additional year rather than risk either the expiration of this authority without the provision of an alternative means of medical care for these veterans or the hasty enactment of legislation which might not be the most appropriate. We support such legislation.

Extension of this authority until September 30, 1983, would result in an estimate cost to the VA of $8.87 million.

RECRUITMENT AND RETENTION OF REGISTERED NURSES

VA has in the past experienced difficulties in meeting its own nursing personnel needs, VA initiated significantly-enhanced recruitment efforts in the 1981–1982 recruitment season with the goal of increasing and improving VA's nurse recruitment potential.

Major components of our nurse recruitment program include: VACO recruitment at job fairs and national meetings, increased emphasis on recruitment advertising, special VACO recruitment team visits to non-VA cities and a newly-installed toll-free 800 telephone recruitment service. These efforts have met with some success and will be continued.

The provisions of Public Law 96–330, the VA Health-Care Amendments of 1980, have improved the Department of Medicine and Surgery's ability to recruit and retain registered nurses through the establishment and use of localized salary rates which are competitive with those paid by community hospitals and health care facilities. The Department has currently authorized 65 facilities to pay above-minimum salary step rates at one or more grade levels. It has also authorized 22 facilities to establish special salary ranges at one or more grade levels which exceed the normal title 38 pay ranges. DM&S recently conducted a thorough review of its registered nurse compensation plan and, as a result, it is refining its pay-setting practices so that VA facilities will be able to pay rates more closely matching community practices by weighting survey data for the size of the competing facility, the number of R.N.'s it employs, and the character of its patient mix. These refinements also allow the Department to compete with community practices on premium pay, overtime pay, and shift differentials.

These flexibilities together with the changes occurring in the economy as a whole, have made the VA more attractive as an employer. The issue of competitiveness is locality specific, i.e., not all alternatives need to be implemented nationwide. Wide variations in pay practices exist throughout the coun-

try, therefore, flexibility to meet community practices to compete effectively are favored and our current authorities provide that flexibility in large measure. Although a number of facilities continue to experience difficulty in recruiting and retaining R.N.'s, this is typically a function of the local labor pool not being sufficient to support the community demand for registered nurses. In those instances in which it was a simple case of the VA pay package not being competitive, adjustments authorized by current statute have been made. As an example, the recruitment and retention situation in California, which had reached a critical stage, has been stabilized by using the flexibilities of Public Law 96–330. Recently, the rate at which VA facilities have been requesting increased salary schedules has declined. Many public and private facilities have reached at least a temporary limit to the level of salaries they pay to registered nurses. So far, it appears that the VA's competitive position on money issues is approaching equality with the private, State and municipal sectors. However, competition is beginning to occur in non-monetary areas that improve the quality of both working and non-working life. Fortunately, I believe that title 38 now contains sufficient authority to enable the VA to compete in these areas. Under section 4107(e)(5) the Department has established what is essentially a compressed workweek—for example, 4 consecutive days' work of 10 hours per day instead of 5 days of 8 hours—with the consent of the individual affected nurse. In addition, Public Law 95–390, recently extended by Public Law 97–160, was the basis used for experimental compressed work schedules at three locations within the Department. The positive experience already logged indicates that compressed workweeks have significant potential for mitigating those recruitment and retention problems with nurses that are based on non-monetary factors.

In fact, preliminary reports from a substantial number of VA facilities implementing these special work schedules show that these programs enhance morale and improve cost effectiveness by improving management of nursing overtime. The authority to install them is an important complement to the special salary authority enacted in Public Law 96–330. We can, I believe, expect to see recruitment and retention figures improving as these dual authorities have their full effect on the system. The implementation of both these authorities (compressed scheduling under section 4707(e)(5) and special salary authority under Public Law 96–330) and the possibility of need for additional authority in these areas will be among the subjects of the studies and reports on recruitment and retention of nursing personnel required by section 118 of Public Law 96–330.

We believe it is necesary to be competitive in both pay and nonpay areas to enable us to recruit and retain registered nurses in order to maintain quality patient care. However, we do not believe that the need for additional legislation in this

area has been clearly established. This is particularly true with regard to highly-structured programs, such as some versions of the so-called "Baylor Plan," which could limit the VA's options and flexibility for meeting the competition on the community level.

In summary, the VA is better able to meet community practices and effectively compete with other health-care facilities for registered nurses on the basis of salary by exercising the flexibilities contained in Public Law 96–330. We recognize the challenge to be met concerning the use of nonmonetary working conditions such as compressed workweeks and are hopeful that programs being implemented under current authorities will prove successful in meeting this challenge.

VA HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

MR. CHAIRMAN, in our planning for the VA health professional scholarship program, we have become concerned that operating such a program with scholarship commitments of up to 4 years on a year-to-year appropriation basis will cause problems. As you know, there is no assurance of appropriations for a specific program year after year. The current appropriation is limited to this fiscal year (1982). Further, we would only request additional funding if we found that our present efforts for meeting the nurse shortage problem, as just discussed, are not succeeding. Therefore, in order to be able to assure scholarship recipients that the VA will support them for the entire scholarship period, we believe we need more flexibility to make maximum use of the funds which have been appropriated. Section 3 of Senate Bill 2385 which you have introduced will accomplish that purpose. We would therefore favor its enactment.

The original legislation establishing the scholarship program emphasized full-time enrollment in order to help individuals complete their training program so that they could begin the service obligation sooner, and the beds and units previously closed because of the nursing shortage in the VA could be reopened. The purpose of the stipend was to assist participants with living costs while they were attending school full-time. The legislation also emphasized the recruitment and retention of new personnel into the VA health-care system through the scholarship program.

The limited funds available for the scholarship program should not be diverted to students enrolled part time. Stipends should not be necessary for students attending school part time. Amending the scholarship legislation to enable VA nurses to attend school part time would increase the length of time necessary to complete training and would not bring new recruits to the VA. Further, scholarships for part-time study would not increase the supply of nurses to the VA.

We recommend that the scholarship program not be used for nurses working in the VA and attending school part time, and do not favor enactment of sections 1 and 2 of S. 2385.

This concludes my statement, Mr. Chairman. I will be happy to answer any questions.

CHANGES IN EXISTING LAW MADE BY S. 2385 AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter I—General

§ 601. Definitions

For the purpose of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor.

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) private facilities for which the Administrator contracts when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide (i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause

(1)(B) or (2) of the first sentence, or in the third sentence, of section 612(f) of this title or of a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in facilities described in clauses (A) and (B) of this paragraph; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a facility described in clause (A) or (B) of this paragraph until such time as the veteran can be safely transferred to any such facility; (iv) hospital care for women veterans, *and medical services described in clause (1) of section 612(f) of this title for a woman veteran if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that a medical condition of such woman veteran relating to her gender precludes appropriate treatment in facilities described in clause (A) or (B) of this paragraph*; (v) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on September 30, [1982,] *1983*, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services; or (vi) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans' Administration outpatient clinics to obviate the need for hospital admission.

In the case of any veteran for whom the Administrator contracts to provide treatment in a private facility pursuant to the provisions of this paragraph, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 613. Medical care for survivors and dependents of certain veterans

(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability,

(2) the surviving spouse or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability, and

(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and, *except as provided in subsection (d) of this section*, subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, the Secretary enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Administrator shall prescribe for such insurance, medical service, or health plans the Administrator deems appropriate.

* * * * * * *

(d) Notwithstanding the provisions of the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall regain eligibility for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such benefits.

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§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program

(a)(1) * * *

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(f) Not later than March 31, [1983,] *1984*, the Administrator shall report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Administrator pertaining to the operation through September 30, [1982,] *1983*, of the pilot program authorized by this section.

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Subchapter V—Payments to State Homes

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§ 643. Applications

Payments on account of any veteran [of any war] cared for in a State home shall be made under this subchapter only from the date the Administrator receives a request for determination of such veteran's eligibility; however, if such request is received by the Administrator within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

Subchapter I—Organization; General

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§ 4107. Grades and pay scales

(a) * * *

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(e)(1) * * *

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(10)(*A*) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may (*i*) increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities), *or* (*ii*) *extend the period for which additional pay is paid under paragarph (3) of this subsection to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.*

(*B*) *Any increase in such rates of additional pay or any extension of such period of additional pay may be made on a nationwide, local,*

or other geographic basis if the Administrator finds that such increase or extension is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal facilities in the geographic area involved) or extension.

* * * * * * *

(h)(1) Notwithstanding any other provision of law but subject to paragraphs (2) and (3) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services of any category of health-care personnel described in clause (A) or (B) of subsection (g)(1) of this section, the Administrator may authorize for such category of health-care personnel, on a nationwide, local, or other geographic basis, the use of such flexible and compressed work schedules as were described in regulations and guidelines issued by the Director of the Office of Personnel Management under section 305 of the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (92 Stat. 761) in order to carry out titles I and II of such Act.

(2) Not later than one hundred and eighty days after the date of the enactment of this subsection, the Administrator, in order to carry out this subsection, shall prescribe regulations, which, to the maximum extent feasible, shall be consistent with the regulations and guidelines described in paragraph (1) of this subsection.

(3) The authority to establish flexible and compressed work schedules pursuant to this subsection shall expire on September 30, 1987.

(4) Not later than the end of the four-year period beginning on the date of the enactment of this Act, the Administrator shall submit to the Congress a report on the results of the use of flexible and compressed work schedules, including an evaluation of the effects of the use of such schedules on the recruitment and retention of the health-care personnel using them, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

(i)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain at any Veterans' Administration health-care facility the services of nurses appointed under this subchapter, the Administrator, pursuant to regulations which the Administrator shall prescribe, may provide that such nurses employed at such facility who work two regularly scheduled twelve-hour tours of duty within the period commencing at midnight Friday and ending at midnight Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full forty-hour administrative workweek.

(2)(A) A nurse who is considered under paragraph (1) of this subsection to have worked a full forty-hour administrative workweek is entitled to basic and additional pay and annual and sick leave as prescribed in subparagraphs (B), (C), and (D) of this paragraph.

(B)(i) The hourly rate of basic pay for such nurse for service performed as part of such nurse's regularly scheduled twelve-hour tour of

duty shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

(ii) The hourly rate of basic pay for such nurse for other service shall be derived by dividing the nurse's annual rate of basic pay by two thousand and eighty.

(C)(i) Except as provided in division (ii) of this subparagraph, such nurse is not entitled to additional pay under subsection (e) of this section for any period included in such nurse's regularly scheduled twelve-hour tour of duty.

(ii) Such nurse is entitled to overtime pay under subsection (e)(5) of this section for any period of service performed in excess of such nurse's regularly scheduled two twelve-hour tours of duty when the total officially ordered or approved service performed during an administrative workweek is in excess of (I) forty hours, (II) eight hours on a day other than a Saturday or Sunday, or (III) twenty-four hours within the period commencing at midnight Friday and ending at midnight Sunday.

(D) Such nurse who is absent on approved sick leave or annual leave during such nurse's regularly scheduled twelve-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

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Subchapter IV—Veterans' Administration Health Professional Scholarship Program

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§ 4142. Eligibility; application; written contract

(a) To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time, *or, in the case of any Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility, part-time,* student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

(2) submit an application to the Administrator for participation in the Scholarship Program;

(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

For the purposes of this subchapter, "part-time student" means a Veterans' Administration employee pursuing study on not less than a half-time basis in a course of training described in subsection (a) (1) (B) of this section.

* * * * * * *

(f) (1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

(i) the tuition of the participant in such school year; and

(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1) (A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

(3) The *maximum* amount of the monthly stipend, specified in paragraph (1) (B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rate of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(g) (1) Subject to paragraph (2) of this subsection, if a participant in the Scholarship Program is awarded a scholarship, as provided for in subsection (a) (1) of this section, as a part-time student in a course of training described in subsection (a) (1) (B) of this section—

(A) the maximum period of time for which a scholarship may be awarded under subsection (e) (1) (A) (i) of this section shall be increased,

(B) the period of obligated service of such participant under subsection (e) (1) (B) (iv) of this section shall be reduced, and

(C) the maximum amount of the stipend payable under subsection (f) (1) (B) of this section shall be reduced

in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in such a course of training.

(2) (A) In the case of a part-time-student participant, no scholarship may be awarded for a period in excess of four-school years except

that the Administrator may, subject to such participant's maintaining an acceptable level of academic standing as described in subsection (e)(1)(B)(iii) of this section, extend the scholarship award period for a period not in excess of two additional school years if the Administrator determines that such an extension would be in the best interests of the United States.

(B) The period of obligated service of such a participant shall be not less than one calendar year.

(3) In the case of such a participant, no stipend shall be paid under subsection (f)(1)(B) of this section for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

[(g)**]***(h)* Notwithstanding any other provision of law, *full-time-student* participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Survey while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

[(h)**]***(i)* The Administrator shall report to Congress not later than March 1 of each year—

(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

(2) the educational institutions providing such training;

(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

[(i)**]***(j)* The Administrator shall prescribe regulations to carry out the Scholarship Program.

§ 4143. Obligated service

(a) * * *

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(c) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed, *initially in the case of a full-time-student participant, and after the completion of such participant's course of training in the case of a part-time-student participant,* under this chapter as a full-time employee in the Department of Medicine and Surgery.

* * * * * * *

§ 4146. Program subject to availability of appropriations

(*a*) The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.

(*b*) *Sums appropriated for the purpose of making payments under this subchapter shall remain available for such purpose until expended.*

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter III—State Home Facilities for Furnishing Domiciliary, Nursing Home, and Hospital Care

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§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1978, a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for [the fiscal years ending September 30, 1981, and September 30, 1982] *each of the six succeeding fiscal years.* Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

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Subchapter IV—Sharing of Medical Facilities, Equipment, and Information

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§ 5054. Exchange of medical information

(a) * * *

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(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Veterans' Administration hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community (*including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans*). The Administrator may

charge a fee for such services (on annual or like basis) at rates which the Administrator determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Administrator in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

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